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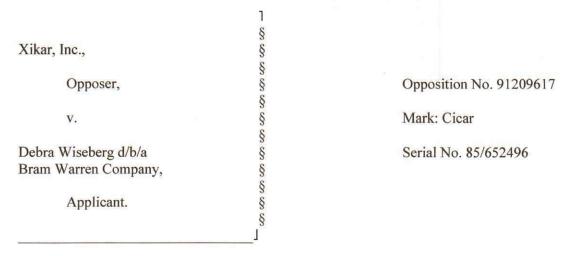
Filing date:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91209617		
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Party	Defendant Debra Wiseberg		
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Signature	/Debra Wiseberg/		
Date	04/16/2014		
Attachments	/Debra Wiseberg/		

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Exhibit 37.pdf(422527 bytes )
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD



APPLICANT AND COUNTERCLAIM PLAINTIFF'S RESPONSE TO OPPOSER AND COUNTERCLAIM DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

COMES NOW, Debra Wiseberg d/b/a Bram Warren Company, Applicant and Counterclaim Plaintiff (hereafter "Applicant"), to respond to Xikar, Inc., a Kansas corporation, Opposer and Counterclaim Defendant's (hereafter "Opposer") Motion for Summary Judgment.

Opposer filed a Notice of Opposition against the Applicant's trademark registration for the mark "Cicar", Serial No. 85/652496 on the grounds of Trademark Act § 2(d) stating that the Applicant's mark is likely to be confused with the Opposer's mark "Xikar". In response, the Applicant's predecessor, Bram Warren Company, a Florida corporation filed an Answer with Affirmative Defenses and Counterclaims. The grounds for the Applicant's Counterclaims No. 1 and 2 for cancelation of the Opposer's mark "Xikar" US Trademark Registration No. 2200215 are Trademark Act § 15(4), 15 U.S.C. §1065(4); Trademark Act § 14(3), 15 U.S.C. 1064(3); and Trademark Act § 2(a), 15 U.S.C. §1052(a).

The parties have not finalized discovery in this matter as the Opposer has repeatedly either not answered or incorrectly answered many of the Applicant's discovery requests and a Motion to Compel such discovery responses may need to be filed by the Applicant in order to finalize discovery. The Applicant does not waive the right to request further discovery responses from the Opposer if this matter proceeds to trial after disposition of the Opposer's Motion for Summary Judgment.

Xikar, Inc. v. Debra Wiseberg d/b/a Bram Warren Company Opposition No. 91209617 Serial No. 85/652496

The Opposer has filed a Motion for Summary Judgment ("MSJ") on its opposition of the Applicant's mark "Cicar" and the Applicant's counterclaims. I respectfully request that the Board deny the Opposer's Motion for Summary Judgment and if deemed appropriate by the Board to grant Summary Judgment to the non-moving party. The Brief in Support of the Applicant's Response to the Opposer's Motion for Summary Judgment and Exhibits are attached hereto.

Dated: April 16,2014.

Respectfully submitted,

By: Waren Company
Debra Wiseberg d/b/a Bram Warren Company

18100 S.W. 50 Street

Southwest Parches EL

Southwest Ranches, FL 33331 Telephone No.: (954) 297-0329

Email: bramwarren@bramwarren.com

CERTIFICATE OF FILING

I hereby certify that the Applicant's Response to the Opposer's Motion for Summary Judgment,
Brief in Support of Response, and Exhibits were filed with the United States Patent and Trademark
Office, Trademark Trial and Appeal Board by ESTTA on April 16, 2014.

By

Debra Wiseberg

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Applicant's Response to the Opposer's Motion for Summary Judgment, Brief in Support of Response, and Exhibits were sent to the counsel for the Opposer by the United States Postal Service, first class mail on April 16, 2014 to the following address:

Ginnie C. Derusseau Erickson, Kernell, Derusseau & Kleypas LLC 8900 State Line Road, Suite 500 Leawood, KS 66206

By:

Debra Wiseberg

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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	§	
Xikar, Inc.,	§	
	§	
Opposer,	§	Opposition No. 91209617
	§	
V.	§	Mark: Cicar
	§	
Debra Wiseberg d/b/a	§	Serial No. 85/652496
Bram Warren Company,	§	
	§	
Applicant.	§	
	1	

BRIEF IN SUPPORT OF APPLICANT AND COUNTERCLAIM PLAINTIFF'S RESPONSE TO OPPOSER AND COUNTERCLAIM DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION

A. APPLICANT'S BACKGROUND

All of the products sold by the Applicant are handmade in the USA by 1 artist, Bram Warren and are sold under a distinctly designed logo (Bram Warren with a design in the center; and the words "I don't make the cigar, I create the atmosphere", Exhibits 1-5, and 8). My house mark is Bram Warren (Exhibits 1-8) and company's name is Bram Warren Company. I clearly state on my website that all of the products sold by the Applicant are made by Bram Warren (Exhibit 1) and the catalog also clearly states that all of the products sold by the Applicant are made by Bram Warren (Exhibits 2 and 4). The catalog contains a picture of Bram Warren painting ashtrays and the website and catalog contain information about the artist. All of the products are sold with retail cards clearly stating that the products are made by Bram Warren (Exhibits 2 and 5). The product sold under the product mark "Cicar", which is signed by the artist (Exhibits 2 and 6); is sold with a storage bag showing the mark "Cicar" and "Bram Warren" underneath the mark (Exhibits 2 and 7); and is sold in a box with the Applicant's logo clearly affixed to the box (Exhibits 2 and 8).

The Applicants mark "Cicar" is a name for a product, an "ashtray for smokers" as stated on the application to register the mark, which is a fanciful suggestive coined mark, without definition and not

contained in a dictionary. The Applicant's mark "Cicar" is comprised of the letters 'ci', which represents the first 2 letters of all encapsulated tobacco products and is meant to suggest that the product is for tobacco products and the letters "car", which is meant to suggest that the product is to be used in a motor vehicle. There is currently only 1 product design being sold under the mark "Cicar" (Exhibits 1, 2, and 4-7). There are currently 5 different ashtrays in numerous styles sold by the Applicant all bearing different product names: Colloquy StrikerTM; CoterieTM; CicarTM; ChamberTM; and CinderTM with different names for the various styles (Exhibits 1, 2, and 4).

I would like to clarify a matter concerning the trademark application for the mark "Cicar", with the Board. When I filed the trademark application for the mark "Cicar" as Vice President of Bram Warren Company, a Florida corporation, I took the terms "First Used" and "First Used in Commerce" at their face value and did not know nor research the USPTO's further interpretation of such terms. I interpreted "first use" to mean first use to an outside party which occurred on April 15, 2011 when the Applicant's catalog was sent to a printing company in another state and "first used in commerce" to mean the first time the mark was used on a product for sale in interstate commerce which occurred in June 2011 when the Applicant's website (Exhibit 1) https://www.bramwarren.com was launched and accessible to anyone in the United States and abroad with access to a computer and when 19 catalogs were sent to various retail merchants in different states within the United States with the offer to purchase our products wholesale (Exhibits 2 and 4). The first sale of a product brandishing the mark "Cicar" was an interstate sale which occurred in November 2011 and was shipped across state lines on December 12, 2011. The mark "Cicar" was used in interstate commerce by Bram Warren Company, a Florida corporation before the application filing date as required in TMEP §901, where it states "in an application based on use in commerce under §1(a) of the Trademark Act, 15 U.S.C. §1051(a), the applicant must use the mark in commerce on or in connection with all the goods and services listed in the application as of the application filing date". The application filing date for the mark "Cicar" was June 14, 2012.

B. WIKIPEDIA EVIDENCE SHOULD BE DISREGARDED

I respectfully request that the Board not use Wikipedia as evidence in this case and to not allow

the Opposer to submit evidence from Wikipedia. The Opposer previously having done so in Opposition No. 91186534. Unfortunately, Wikipedia can be manipulated and changed by anyone with a computer (Exhibit 9). The definition for "Cigar" was changed after the Applicant filed the Answer to the Opposer's Notice of Opposition on April 15, 2013. On April 7, 2013, the Wikipedia definition for CIGAR under Etymology, en.wikipedia.org (Exhibit 10) read as follows "the word "cigar" originated from sikar, the Yucatec Mayan word for smoking, which became cigarro in Spanish, probably from the Mayan *sikar* ("to smoke rolled tobacco leaves" – from *sik*, "tobacco"). Due to the nature of the website, that it can be edited at whim, it should not be considered evidence in a court of law.

II. RESPONSE TO OPPOSER'S EXHIBITS

I object to all exhibits submitted by the Opposer with their MSJ that are not self-authenticating and have not been properly introduced as evidence. I object to the authenticity of the documents submitted by the Opposer and the factual nature of statements made by the Opposer within such documents, if the factual nature and use of such documents aren't proven by the Opposer. I further request that the Board hold the Opposer accountable for all of the statements made within such documents that go towards proving the Applicant's case and to take judicial notice of such statements if the taking of judicial notice of the Opposer's statements is deemed appropriate by the Board.

I object to the Opposer's Exhibit's No. 50 and 51. TBMP § 704.10 states "an answer to an interrogatory may be submitted and made part of record by only the inquiring party except that, if fewer than all the answers to interrogatories are offered in evidence by the inquiring party. Though TBMP § 528.05 does state that interrogatory answers may be submitted into evidence with a Motion of Summary Judgment it does not include any language that states the requirement of TBMP§ 704.10 is waived with a Motion for Summary Judgment.

III. RESPONSE TO OPPOSER'S STATEMENT OF UNDISPUTED FACTS

The Opposer has stated 24 facts in their Motion for Summary Judgment that they claim are undisputed materials facts that entitle them to have such motion granted. I have responded to and dispute the Opposer's statement of facts as explained below and throughout the Applicant's Brief.

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Fact No. 1) Opposer's intent to use application for the mark "Xikar" shows it was filed on August 19, 1996. The Opposer has provided no evidence to prove use of the "Xikar" mark on "cigar cutters" in interstate commerce by the Opposer or Kurt Van Keppel as early as February 6, 1997. TMEP §901.05, states, if the Applicant is not itself using the mark in commerce but the mark is being used by one or more related companies whose use inures to the applicant's benefit (15 U.S.C. §1055 and §1127), this must be stated in the application or allegation of use". The response to the Office Action of January 30, 1998 and the Declaration of Use made by Kurt Van Keppel, do not state anywhere that the mark is being used by a related company and not by Kurt Van Keppel, personally. I believe this should fall within the Applicant's claims under Trademark Act Section 2(a), 15 U.S.C §1052(a), that the Opposer's registration comprises a deceptive matter, (Exhibit 11).

- Fact No. 2) Admitted.
- Fact No. 3) I have no knowledge of the Assignment beyond what the USPTO records show.
- Fact No. 4) A Combined Declaration of Use and Incontestability under Sections 8 & 15 for the mark "Xikar" for "cigar cutters" was accepted and acknowledged by the USPTO on May 25, 2004 as shown by the application file. This does not mean that the Opposer's mark "Xikar" is incontestable only that the Opposer filed such declaration and the contestable basis for canceling the mark is now limited. The mark was transferred from Kurt Van Keppel to Xikar, Inc., a Kansas corporation on April 6, 2004 immediately before the Declaration of Use and Incontestability under Sections 8 & 15 was filed on April 15, 2004.
- Fact No. 5) The Opposer's trademark "Xikar" is for "cigar cutters" only and not a variety of cigar accessories, including ashtrays, this is further discussed throughout the Applicant's Brief.
- Fact No. 6) I have no direct knowledge to verify the Opposer's claim of use of the "Xikar" mark on "ashtrays" beginning in 2009.
- Fact No. 7) This has not been proven by the Opposer.
- Fact No. 8) The "Xikar for Life" application was filed by the Opposer on October 11, 2012 in International Class 34 for cigars; cigar cutters; humidors; cigar carrying cases, cigar storage devices, and cigar lighters. The Opposer has not proven use of the mark "Xikar for Life" in commence as a trademark

as early as January 31, 2010. The Opposer did not include "ashtrays" in the registration of goods used with such mark filed on October 11, 2012. This indicates that the Opposer's "ashtrays" hold little importance for the Opposer if they would include multiple products, but not include "ashtrays" in the registration for the mark "Xikar for Life".

Fact No. 9) While the Opposer's mark "Xikar" is not found in the dictionary (to the Applicant's current knowledge) it is hardly made-up. I discuss this further throughout the Applicant's Brief.

Fact No. 10) This is denied and discussed throughout the Applicant's Brief.

Fact No. 11) The Opposer has submitted no proof of this allegation.

Fact No. 12) This is denied and further discussed in the Applicant' Brief.

Fact No. 13) To my knowledge, the Opposer has never stated before this opposition case that their mark was inspired by the word "sicar" only that it was procured from the Mayan word "xikar" or "sikar". The Yucatec Maya Language as shown in Exhibit 23, www.omniglot.com/writing/yucatec, does not include the letter "C" in such language. The Opposer does appear to sell products with "Mayan" within such product names and they have also claimed a strong affiliation with the Mayans on their website and have made other affiliating comments.

Fact No. 14) Admitted.

Fact No. 15) Admitted.

Fact No. 16) This is denied and I contend this is a misleading statement made by the Opposer. The Opposer has identified the Applicant's response to the Opposer's First Set of Interrogatories,

Interrogatory 21, where the Applicant named two facts in support of the Applicant's First Affirmative

Defense to the Opposer's Notice of Opposition. The Applicant has named numerous affirmative defenses and multiple counterclaims which all go toward disproving the Opposer's case and the Applicant stated in such response that more than one fact has been named but that "the answer to this interrogatory does not constitute all of the facts that may be proven in this case by the Applicant".

Fact No. 17) This is discussed on page 2 under Applicant's Background.

Fact No. 18) This is denied and discussed throughout the Applicant's Brief.

Fact No. 19) I agree that the Opposer and their mark "Xikar" have caused consumer confusion within the marketplace and this is discussed in the Applicant's Brief.

Fact No. 20) It is disputable that both marks contain 5 letters. The Applicant's mark contains 5 letters but the Opposer's mark can be perceived as 5 letters or 1 symbol of unknown value and 4 letters. The Opposer's contention that both marks end in a strong "ar" sound is debatable. The Applicant's mark does not indicate an initial sound of "zih", "sih", or "sai". The Applicant's middle letter "C" does not indicate a hard "K"; the middle "C" in the Applicant's mark would infer a hard "C" or soft "C". As to the Opposer's claim that both marks have the same number of letters in each syllable and the same number of syllables, is disputable. The Opposer's mark is highly confusing and no one can say how an individual consumer may see the mark; they may view the mark as "X-ikar; "Xik-ar", "Xi-kar", "X-i-kar" or "X-ik-ar".

Fact No. 21) The Applicant's mark is used on ashtrays and the Applicant's ashtray does fit in a cup

holder but is distinguishable from the Opposer's products as the Applicant's products are original designed art. This is further discussed in the Applicant's Brief.

Fact No. 22). The artist "Bram Warren" who manufactures all of the Applicant's products has been designing and manufacturing ashtrays long before the Opposer has used its mark in connection to ashtrays. The registrations for the Opposer's marks "Xikar" and "Xikar for Life" do not include "ashtrays" in their goods.

Fact No 23) The Opposer has only submitted a list of supposed distributers and this does not prove use or sale of the Opposer's products world-wide. The Applicant's website www.bramwarren.com can also be accessed world-wide.

Fact No. 24) Admitted.

IV. STANDARD OF REVIEW

"A party moving for summary judgment has the burden of demonstrating the absence of any genuine dispute of material fact, and that it is entitled to judgment as a matter of law TBMP §528.01, Note 5. The burden is greater than the evidentiary burden at trial", TBMP §528.01, Note 6. "The nonmoving party must be given the benefit of all reasonable doubt as to whether genuine disputes of

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material fact exist, and the evidentiary record on summary judgment, and all inferences to be drawn from the undisputed facts, must be viewed in the light most favorable to the nonmoving party", TBMP §528.01, Note 11.

"A factual dispute is genuine if sufficient evidence is presented such that a reasonable fact finder could decide the question in favor of the nonmoving party", TBMP §528.01, Note 9. "If the Board concludes that there is no genuine dispute of material fact, but that the nonmoving party is the one entitled to judgment as a matter of law, the Board may, after giving notice and a reasonable time to respond, grant summary judgment in favor of the nonmoving party", TBMP § 528.01, Note 17.

V. ARGUMENTS

The Opposer states on Page 20 in Foot Note 3 of their MSJ, that their mark "Xikar", "is unique in the trademark registry and quite simply, there is no other mark like it". I would agree that there may be no other trademark registered like the Opposer's mark. It is the Applicant's opinion that the Opposer has manipulated trademark laws in order to appropriate rights to generic words they could not otherwise register and I am unsure that a case concerning the exact same issues has ever been brought before the Board. I respectfully submit my further arguments against the Opposer's Motion for Summary Judgment.

A. ARGUMENT AGAINST OPPOSER'S MOTION FOR SUMMARY JUDGMENT ON APPLICANT'S COUNTERCLAIMS FOR CANCELLATION OF THE OPPOSER'S MARK

1. "Xikar" trademark is not incontestable

Trademark Act §15, 15 U.S.C. § 1065 states "no incontestable right shall be acquired in a mark which is the generic name of the goods or services or a portion thereof, for which it is registered.

Trademark Act §14, 15 U.S.C. §1064 states a mark may be canceled "at any time if the registered mark becomes the generic name for the goods or services, or a portion thereof, for which it is registered, or its registration was obtained fraudulently or contrary to the provisions of section 1054 of this title or of subsection (a), (b), or (c) of Section 1052 of this title for a registration under such Acts, or if the registered mark is being used by, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used".

2. "Xikar" trademark is generic

The Opposer has cited and is apparently hiding behind the decision in General Cigar Co. Inc. v. G.D.M. Inc., 988 F. Supp. 647, 45 U.S.P.Q.2d 1481 (S.D.N.Y. 1997), where the court found that the word "Cohiba" meaning "tobacco" in the Taino language is "a word which is not in general or common use, and is unintelligible and non-descriptive to the general public, although it may be known to linguists and scientist, may be properly regarded as arbitrary and fanciful and capable of being used as a trademark or trade-name". The Opposer claims in their MSJ, Statement of Undisputed Material Facts No. 10 that their mark was inspired by the first Spanish spelling of the Taino word for cigar, which is "sikar".

I believe the Opposer is using this explanation as a way to distance their mark from the generic nature of the Mayan word "sikar" or "xikar" and is obviously trying to hide behind the General Cigar decision by stating their mark was procured from a Taino word. TMEP § 809.01 (b)(iii) states, "the determination of whether a language is "dead" must be made on a case by case basis, based upon the meaning that the term would have to the relevant purchasing public". The Opposer states that their mark is not generic because "the inspirational antecedent has the meaning "cigar" in an ancient and obscure language". The Mayan word "sikar" or "xikar" is deeply rooted in the origins of the word 'cigar" and the Mayans are known to have created the entire industry. The Opposer has repeatedly stated in documents that their mark "Xikar" was procured from the Mayan word 'sikar" or "xikar". (See Exhibits 2, 12-18).

Mayan is not a dead and obscure language and the Mayan word "sikar" (xikar) is not unknown to cigar consumers in the United States. "No indigenous culture in North America is near as large; none have maintained their way of life and none have kept their languages alive as have the Maya – and the essence, arguably the very existence, of a culture is preserved in its language" (See Exhibit 19, http://www.mayan-traveler.com/modern-maya.php). The Mayan language is spoken within the United States "the languages heard in Guatemalan neighborhoods of Palm Beach County are ancient Mayan. These quiet, hardworking people are Mayas, the descendants of a once mighty civilization, who began arriving in South Florida in the early 1980 with no knowledge of Spanish or English", (Exhibit 31, www.guatemalanmaya.org). The website informs the reader that it is not Spanish being spoken by different groups as presumed but Mayan.

The current U.S. Census (Exhibit 20, http://www.census.gov) data includes a list of detailed languages spoken at home in the US. Keep in mind that this list may include a figure well below the actual figure that exists due to the fact that a person who speaks the Mayan language may either not respond to the census; may not understand the questions or be able to read the census; may list Spanish instead of Mayan as the language spoken at home; and guatemalanmaya.com informs that the "Mayans language barriers isolate them from surrounding society". The U.S. Census Bureau "created a list of 381 languages", (Exhibit 21, Page 2, U.S. Census Bureau American Community Survey Reports by Camille Ryan, Language Use in the United States: 2011, http://www.census.gov), Mayan languages are included on the list. The current U.S. Census shows 34,183,747 people speak Spanish and Spanish creole at home in the US and that 6,832 people speak Mayan languages at home in the US with the majority not speaking English very well. I believe this number is vastly under reported especially since most persons who report speaking Mayan also admit they do not speak English very well and may certainly not be able to read English and properly answer a census survey. 'Maya languages, also called Mayan languages, family of Mesoamerican Indian languages spoken in Mexico, Guatemala and Belize; Maya languages were also formerly spoken in western Honduras and western El Salvador. Western Maya languages; Yucatec, the most important, is spoken in Yucatán, northern Guatemala, and Belize". (See Exhibit 22, http://www.britannica.com). Yucatec Maya language as shown does not include the letter "C", but does include the letters "k", "k", "s", and "x". Yucatec Maya is a Mayan language spoken by 800,000-1.2 million people in Mexico and Belize, (Exhibit 23, http://www.omniglot.com/writing/yucatec). "Although Spanish is the official language of all Central American countries (except for Belize, where it is English), many Mayan languages are still spoken today as first or second languages by over six million indigenous people, (Exhibit 24, http://aboutworldlanguages.com/mayan-language-family).

Various English dictionaries state in the definition of the word "cigar" that the Mayan word "sikar" is a known origin of the word "cigar". (Exhibits 2, and 25-30). Time has stated in the article titled "A Brief History of the Cigar" (Exhibit 32, http:/content.time.com), that "a ceramic pot discovered in Guatemala that dates at least as far back as the 10th century depicts a Mayan puffing on tobacco leaves

bound by a string. (The Mayan may also have handed down the objects name: the term for smoking, sikar, likely led to the Spanish cigarro, from which the cigar takes its name.)". I have attached pages from various websites stating the word "cigar" originated from the Mayan word "sikar", (Exhibits 33-37, archive.tobacco.org; wiki.answers.com; lifestyle.iloveindia.com /lounge/history-of-cigar; cigargarry .com/history; www.cosmosmith.com/cigars_history). The generic Mayan word "sikar" is still relevant today.

I have also included an encyclopedia website page which explains Sikar is a town in India and a market for grain and tobacco, (Exhibit 38, encyclopedia2.thefreedictionary.com/Sikar). On August 29, 2001, W. Curtis Draper Tobacconist, Inc., a Delaware corporation filed an application to register the mark "Sikar", Serial No. 76306783 in International Class 34 with "cigars" listed as goods. The mark "Sikar" was found to be geographically deceptively misdescriptive due to the fact that the town of Sikar in India is a city known for tobacco and though the applicant requested reconsideration such was denied and an appeal was not filed, (Exhibit 39, TESS printout; Exhibit 40, Office Action letter; Exhibit 41, Response to Office Action letter; Exhibit 42, Reconsideration denial; and Exhibit 43, Notice of Abandonment).

In TMEP §1209.01(c)(i), 'the two-part test used to determine whether designation is generic is 1) what is the genus of goods or services at issue." The Opposer's goods listed on the registration for the mark "Xikar" are "cigar cutters" in class 34 "smokers articles"; the goods listed on the registration for the mark "Xikar for Life" are cigars, cigar cutters; humidors; cigar carrying cases; cigar storage devices; and cigar lighters. The Opposer sells items exclusively for smoking purposes namely cigars and cigar accessories. The second part of the test asks 2) "does the relevant public understand the designation primarily to refer to that genus of goods or services. Evidence of the public's understanding of a term can be obtained from competent source, including dictionary definitions, research, databases, newspapers, and other publications. It is not necessary to show that the relevant public uses the term to refer to the genus. The correct inquiry is whether the relevant public would understand the term to be generic. There can be more than one generic term for a particular genus of goods or services. Any term that the relevant public understands to refer to the genus is generic".

The Opposer cited H. Marvin Ginn Corp. v. Intl. Assn. of Fire Chiefs, Inc., 782 F.2d 987, 990, 228 USPQ 528, 530 (Fed. Cir. 1986) in which the court found "trademark "Fire Chief' to describe magazine devoted to firefighting was, at most, descriptive, rather than generic, and thus was valid; Sara Lee Corp. v. Kayser-Roth Corp., 81 F. 3d 455 (4th Cir. 1996); concerning Sara Lee's L'eggs and Leg Looks both for pantyhose, where the court found "L'eggs, TM a word that represents a singular concept associated with-but very different from-pantyhose was not generic. L'eggs TM conjures favorable images of attractive legs or legginess, and, subtly reminding consumers of its famous egg packaging design, reinforces the association between the product and its source"; Le Blume Import Co. v. Coty, 293 F.344 (2d Cir. 1923), this case is concerning Lorigan, L'Origan and Origan marks all for perfume, the court found "whatever knowledge of the fragrance the public in the Unites States possesses it has derived from the extensive use the public has made of Coty's perfumes, and not from its knowledge of the flower which here is practically unknown to the public". These cases are not similar to nor have the same issues as this matter currently before the Board.

The Opposer states on Page 20 in Foot Note 3 of their MSJ that "Xikar" is an arbitrary and fanciful mark. I dispute this contention as the mark "Xikar" is definitely not arbitrary and neither should it be considered fanciful. In Opposer's Exhibit labeled XIKAR-000525, Kurt Van Keppel personally responds (dated July 29, 2001) to an internet posting stating the following, "the word xikar is thought to be one of two spellings (the other being sikar) of the original Spanish translation of the Mayan word for their smokes", (Exhibit 18).

The Opposer has named Clorox®; Kodak®; Polaroid®; and Exxon® as examples of fanciful marks without further expanding upon their connection to the Opposer's mark "Xikar", none of these marks are either generic words or based on generic words. TMEP §1209.01(a) "arbitrary marks comprise words that are in common linguistic use but, when used to identify particular goods or services, do not suggest or describe a significant ingredient, quality, or characteristic of goods and services (e.g. APPLE for computes; OLD CROW for whiskey)". Nautilus Grp. Inc. v. Icon Health & Fitness, Inc., 372 F.3d 1330, 1340, 71 USPQ2d 1173, 1180 (Fed Cir. 2004), defines "an arbitrary mark as "a known word used

in an unexpected or uncommon way". The Opposer has cited Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772, 396 F.3d 1369, 1372, 73 USPQ2d 1689, 1692 (Fed. Cir. 2005), where it was found that "VEUVE - meaning WIDOW in English - held arbitrary term as applied to champagne and sparkling wine, and thus conceptually strong as a trademark". The Opposer's mark "Xikar" was procured from the Mayan word "xikar" or "sikar" a known origin of the word "cigar" and is not arbitrary as the Opposer has engaged in the sale and promotion of cigars (Exhibit 2-"Affidavit" and Exhibits 54 and 55) and cigar accessories under the mark "Xikar" and their trademark is registered under "smoker's articles" (Exhibits 12-18). The Opposer may try to distance themselves from the generic nature of their mark, but they can't be allowed to do such and must be held to their actions both past and present. They must also be held to the fact that they have registered the mark "Xikar for Life" including the goods "cigars".

The Opposer can't be allowed to manipulate the facts in this case in an attempt to distance themselves from the Applicant's allegations in this action. The letter "X" in the English language is never pronounced with a "C" or "S" sound, yet the Opposer claims to have tried to persuade consumers to pronounce the 'X" in their mark with a "C" or "S" sound causing consumer confusion. The Opposer has inappropriately tried to use their trademark "Xikar" as a generic device and nothing more than a guise for the words "sikar" and "cigar" (words they could not register) and is now asking the Board to grant the Opposer exclusive and far-reaching rights to the generic words "sikar" and "cigar" and the inherent characteristics of such generic words by and through this trademark litigation. The Opposer states in Exhibit 44, that they first pronounced their mark "Xikar" like "cigar", stating "we first pronounced the name "cigar" but multiple times people would call us and say "is this Xikar (Zy-car)? And we'd say, "Sure!" How can the Opposer honestly assert that they have not used their mark in a generic manner when they state in documents produced by the Opposer that they first tried to have consumers pronounce their mark "Xikar" as "Cigar".

3. "Xikar" Trademark Falsely Suggests a Connection to Persons, Living or Dead

15 U.S.C. §1064, states that a trademark may be canceled at any time based on 15 U.S.C.

§1052(a), which contain the grounds, "if the mark consists of or comprises matter which may falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols".

The Opposer stated in a claimed press release that "the Xikar® name comes from the first Spanish translation of the word the Mayans had named the rolled leaf cylander they smoked for ceremonial occasions. The original "xikars" probably had tobacco and other dried leaf stimulants to enhance ceremonial experiences", (Exhibits 12 and 13). This statement is extremely misleading and falsely suggests a connection to the Mayans and also falsely suggests that the Opposer is somehow connected to the origins of the smoking industry. In addition, I would like to point out in Exhibit 12 that the Opposer did not have the right to use the ® symbol with the mark "Xikar" on May 1, 1997 as such trademark was not registered until October 27, 1998 and I would further note that the Opposer uses the ® symbol within their trade name in such document "Xikar®, Inc.".

The Opposer has made the following statement on their website www.xikar.com. "Xikar has a strong affiliation with the Mayan culture" as evidenced by Exhibits 45 and 46, pages from the Opposer's website. Strong is defined in the dictionary as having the power of resistance; not easily damaged, overcome, or disturbed; decided or firmly held; convincing or striking; intense, and concentrated.

Affiliate is defined in the dictionary as attach or connect with a larger organization.

The Opposer's mark "Xikar" is the exact spelling of one translation of the Mayan word for cigars xikar (as stated by Kurt Van Keppel); the other translation being sikar, (Exhibit 18). The Opposer has not disassociated themselves from the Mayans and the meaning of the Mayan word "xikar or "sikar", instead they have repeatedly inferred an association. They have made repetitious comments and have named their products after the Mayans. The Opposer has tried to get consumers to pronounce their mark "Xikar" as "cigar" and "sikar" and only begun using a "Z" sound for the "X" in their mark after consumers repeatedly pronounced their mark with a "Z" sound.

"False representations, for purposes of the Latham Act prohibition against express or implied false representations made in connection with the sale of goods, occurs in advertising when the challenged activities create likelihood of confusion in the consuming public, Consumers Union of U.S.,

Inc. v. New Regina Corp, 664 F. Supp. 753, 4 U.S.P.Q.2d 1257 (S.D.N.Y. 1987). "If party challenging advertising claim under Lanham Act shows actual deception, that claim is "literally false" a court need not consider actual effect on buying public; literal falsity of claim must be considered within context in which message was conveyed, W.L. Gore & Associates, Inc. v. Totes, Inc., D.Del. 1992, 788 F. Supp. 800, 23 U.S.P.Q.2d 1091.

The Applicant requested that the Opposer describe in detail their strong affiliation with the Mayan culture as the Opposer laid claim to in statements and the Opposer responded to Interrogatory No. 8 of Applicant's First Set of Interrogatories by stating "an affiliation with the Mayan culture is not at issue and has no bearing on any issue in this proceeding". The Opposer did not state any facts that would validate a strong affiliation with the Mayan culture as claimed by the Opposer, and that would designate such statements as "literally true", instead of "literally false, (Exhibit 47).

For its probative value, I would ask the court to consider an application to register a trademark by the Opposer for "Havana Collection", Serial No. 77273188 (application was opposed) and the Opposition No. 91186534, (Exhibits 48, TESS printout; Exhibit 49, Application; and Exhibit 50, Decision). The Opposer was refused registration of said trademark, finding it deceptive in a decision by the Board dated November 13, 2012, and then abandoned said mark on January 28, 2013. The Board found "the primary significance of Havana is the capital city of Cuba, a geographic area that is generally known to American consumers. Because Havana is well known, if not famous, for cigars, consumers will make a goods/place association between cigar accessories and Havana. That is, consumers will mistakenly believe that applicant's cigar accessories originate in Havana when they do not. Lastly, because of the renown of Havana for cigars, the geographic origin of cigar accessories is a material factor for consumers in their decision to buy such products. In the view of the foregoing, opposers have established that the mark HAVANA COLLECTION for cigar accessories is geographically deceptively misdescriptive under Section 2(e)(3) of the Trademark Act". The decision in said case did not include a reference to the fact that the mark was also registered for "cigars" and that Opposer also promoted and sold cigars. The Opposer has no connection to Havana and yet used such term in the Applicant's opinion in order to

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solidify their reputation and falsely suggest a connection to Havana, Cuba and the deep history between Havana, Cuba and the cigar industry, (Exhibit 47, Interrogatory No. 9 of the Applicant's First Set of Interrogatories). The Opposer has an apparent pattern of using trademarks and the meaning behind the words in such trademarks in order to falsely suggest a connection to the deep roots of the cigar industry.

4. "Xikar" Trademark Comprises a Deceptive Matter

15 U.S.C. §1064, states that a trademark may be canceled at any time if the registered mark or its registration was obtained fraudulently or contrary to the provisions of 15 U.S.C. §1052(a), which contain the cancelation grounds, "if the mark consists of or comprises deceptive matter".

The intent of the Opposer when they obtained their mark is clear, the mark "Xikar" was believed by the Opposer to be one of two translations of a Mayan word either "xikar" or "sikar" and was meant to be no more than a guise for the words "cigar" and "sikar" and a manipulation of trademark laws in an attempt to appropriate rights to generic words that the Opposer could not otherwise claim. They are now using those laws to force the Applicant into litigation at mine and my predecessors detriment.

TMEP§809, states "an application to register a mark that includes non-English wording must include an English translation of that wording, 37 C.F.R. §2.32(a)(9). The Opposer's mark "Xikar" contains non-English wording and such was not disclosed on the application for said mark.

The Mayan language is not a dead and obscure language and without question the Mayan word "sikar" (xikar) is still used today as evidenced by various dictionary definitions; news articles; and articles posted on websites from various persons in the industry, (Exhibits 25-30, 32-37, 39-43). In addition there is a cigar lounge in Wilmington with the name "Sikar Lounge, (Exhibit 51, www.sikarlounge.com). If a search for "mayan civilization and cigars is performed on either www.google.com or www.bing.com, the Opposer website www.xikar.com is the first query in both searches, (Exhibits 2, 52 and 53). Latin is generally considered a dead language. However, if there is evidence that a Latin term is still in use by the relevant purchasing public (e.g., if the term appears in news articles), then a Latin term is not considered dead. The same analysis should be applied to other uncommon languages", TMEP §809.01(b)(iii).

The Opposer and their predecessor, Kurt Van Keppel have withheld pertinent information from

the USPTO that was needed to properly evaluate the Opposer's mark "Xikar". The following facts were not divulged to the USPTO when the application to register the mark "Xikar" was filed: 1) USPTO was not informed as to the meaning and non-English translation of the word "sikar" and "xikar"; 2) USPTO was not informed that the Opposer intended to use their mark as no more than a guise for the generic words "cigar" and "sikar"; 3) USPTO was not informed that the Opposer intended to pronounce their mark as "cigar" and "sikar", which are generic words that describe the Opposer's genus of goods; 4) USPTO was not informed by the Opposer that they planned to use the "X" in their mark as an interchangeable symbol to represent whatever letter or sound the Opposer should choose; 5) and the USPTO was not informed in the application for registration of the mark "Xikar" or in the Declaration of Use dated July 22, 1998, that it was being used by other than Kurt Van Keppel personally, (Exhibit 11, Response to Office Action letter and Declaration of Under 37 C.F.R. §2.20).

The Opposer's application for the mark "Xikar" states "no standard character claim", "mark drawing type: 1 typeset word(s)/letter(s)/numbers" and that "no image exists for this case". It appears to me that the Opposer registered their mark with the intent to deceive the USPTO. There is no standard character claim and the application is marked typeset word(s)/letter(s)/number(s) which is completely open for interpretation, without an explanation as to the meaning of such designation.

The Opposer has cited *General Cigar* in which the court concluded they had no evidence the word "Cohiba" retained significance in the industry at the time of registration. The defendant in that case claimed *General Cigar*'s trademark was invalid because its 1978 application was based on misrepresentations and specifically that *General Cigar* should have supplied the PTO with the non-English translation of their mark. The court found, "the fact that the history was used in packaging in 1982, however, does not establish *General Cigar*'s awareness of this history at the time of the 1978 application four years earlier" and that *General Cigar* did disclose the Taino translation in its 1982 application for registration", General Cigar Co., Inc. v. G.D.M. Inc., 988 F. Supp. 647, 45 U.S.P.Q.2d 1481, (S.D.N.Y. 1997). Unlike with *General Cigar* it has been clearly established through evidence that Kurt Van Keppel and the Opposer were not only aware of the meaning of the generic words "sikar" and

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"xikar" at the time the application was filed and chose to keep such information from the USPTO, but that the mark was procured from such knowledge.

5. Applicant's Counterclaim No. 3

The grounds for Counterclaim No. 3, is not based solely on Trademark Act § 18 and as such was not cited in Counterclaim No. 3 because the Board has previously found that Section 18 does not contain any express provisions with respect to a disclaimer of a generic term in a mark registered for more than five years. Instead I am asking the Board to expand and modify Section 18 or to establish a new law as it pertains to the facts of this case, if the Board does not cancel the Opposer's mark.

B. ARGUMENT AGAINST OPPOSER'S MOTION FOR SUMMARY JUDGMENT ON OPPOSITION TO THE APPLICANT'S MARK

1. "Cicar" and "Xikar" marks are not similar

The Applicant's mark "Cicar" and the Opposer's mark "Xikar" are not the same and have a different appearance and sound. The only characteristics similar or shared between the two marks is due to the inherent characteristics of the generic words "cigar" and "sikar" (xikar). The Applicant's mark "Cicar" is only a product name and such products bear a different house mark, company name, and distinct logo.

The Opposer has cited the following cases: Beer Nuts, Inc. v. Clover Club Foods Co., 805 F.2d 920, 231 U.S.P.Q. 913 (10th Cir. 1986), BREW NUTS and BEER NUTS both for nuts, "the word "brew" is a common synonym for "beer", the district court noted BREW NUTS and BEER NUTS are both relatively inexpensive snack foods"; Mattel, Inc. v. Funline Merchandise Co., Inc., 81 U.S.P.Q.2d 1372 (TTAB 2006), RAD RIGS for toy vehicles and accessories and RAD RODS for mechanical action toy vehicles, "Rigs" and "Rods" disclaimed, due to the shared use of the term RAD, the similarities between the marks outweigh the dissimilarities"; In re Majestic Distilling Co, Inc., 315 F.3d 1311, 65 U.S.P.Q.2d 1201 (Fed. Cir. 2003), RED BULL for tequila was found likely to be confused with RED BULL for malt liquor; In re White Swan, LTD, 8 U.S.P.Q. 1534 (PTO 1988), SHAKE-N-GROW for grass seed and SHAKE SCATTER & GROW for flower seeds, where it was found "the only difference of any consequence is that applicant's mark contains the additional word SCATTER"; In re Viterra Inc., 671

F.3d 1358, 101 U.S.P.Q. 1905 (Fed. Cir. 2012), X-SEED and XCEED both for agricultural seed(s), the Board found "that one reasonable variation of XCEED could include a large capital letter "X" followed by "ceed" in smaller letter, which would resemble the X-Seed mark"; Canadian Imperial Bank of Commerce v. Wells Fargo Bank, Nat. Ass'n, 811 F.2d 1490, 1 U.S.P.Q.2d 1813 (Fed. Cir. 1987), COMMUNICASH and COMMCASH both for banking services, where the court found the marks "similar in appearance, sound and meaning and since used in connection with identical banking services, that source confusion is likely". The only characteristics' separating the two marks is the UNI in the middle of one mark. None of the cases cited by the Opposer have the same issues as this matter.

The Opposer has stated in their MSJ that 'in fact, it has long been recognized that the substitution of one or two letters may be insufficient to support a finding of dissimilarity when the marks are similar in sound and meaning". The Opposer's mark "Xikar" as stated by Kurt Van Keppel is believed to be one of two translations of the Mayan word for smokes namely cigars and when Kurt Van Keppel procured his mark "Xikar" he did not even change one letter (Exhibit 18). The Opposer states in their MSJ that "correct pronunciation" of a term "cannot be relied upon" by an applicant seeking to avoid a finding of likelihood of confusion" and citing In re Lamson Oil Co., 6 U.S.P.Q. 2d 1041 (TTAB 2006). In re Lamson concerned the mark "Trucool and "Turcool" where the marks contained all of the same letters; this is not the case in this matter and furthermore, the letter "X" is never pronounced with a "C" sound. The Opposer can't be allowed to use the "X" in their mark as an interchangeable symbol to represent sounds outside accepted pronunciation standards. The fact that the Opposer has tried to use the "X" in their mark "Xikar" at will as an interchangeable symbol should invalidate the mark alone. No one should be allowed to register a trademark containing an "X" (which is known by the public to represent an unknown value) and be allowed to use such "X" to represent any letter they choose at the time and further be allowed to bar others from any pronunciation of choosing. The Opposer states in their MSJ and on their website that the "X" in their mark represents two blades of a cigar cutter, which shows they have tried to use their mark to represent an unknown value instead of the actual letter "X". What letter and sound is represented by "two blades of a cigar cutter", none. The Opposer trademark registration "Xikar"

states it is not for standard characters but for "typeset word(s)/letter(s)/number(s) and states "no image exists for this case". This is apparently the Opposer's predecessor, Kurt Van Keppel's attempt to register the mark "Xikar" for other than standard letters while at the same time not explaining the meaning of such characters, preventing the USPTO from properly scrutinizing the mark during the application process.

The Opposer has named the following numerous pronunciations of their mark "Xikar" in various documents: 1) zihkar; 2) zihcar; 3) zicár; 4) ze-cãr; 5) zy-car with the heavier accent on the first syllable; 6) sihkar; 7) sihcar; 8) saikar; 9) saicar; 10) cigar -pronounced sigáar; 11) ceegar; 12) shecar; 13) hecar; 14) secar, and consumers have used the following pronunciations: 15) ex-icar; 16) ex car; 17) eye-car; 18) xy-kah; 19) xy-kahr; zee-car; 20) zeye-car; 21) zed-kar; 22) zye-car; and 23) she-car (Applicant's Exhibits 12-14, 17-18, and 47-Interrogatory No. 4 of Applicant's First Set of Interrogatories, Exhibits 56 and 57; Opposer's Exhibit 38 and 44). The Applicant's mark is not pronounced in any of the ways previously named nor is there a reason for a consumer to do so. The Opposer currently pronounces the "X" in their mark with a "Z" sound. If the term "Zikar" is searched on www.bing.com the Opposer is the first and second query result, (Exhibit 2, 58 and 59) and on www.google.com they appear under "searches related to Zikar (Exhibit 60). The Opposer is apparently not concerned that their mark "Xikar" will be confused with the Muslim term "Zikar", which may lead consumers to believe that the Opposer or its products have Muslim origins and thus purchase their products. The Opposer is well aware that their mark "Xikar" has caused confusion amongst consumers, this is evidenced by the Opposer's claimed press release which is titled "Xikar: How to Pronounce it and What it Means" dated May 3, 2003 (Exhibit 14), which begins "Curious? Confused? Maybe a little of both", and states they pronounce their mark "Xikar" Zy-car and that "the original spelling was SIKAR, a Mayan Indian word for "cheroot" which they regularly smoked. When the Spaniards discovered the Mayan culture, they also discovered the cheroot and began smoking this "cigar". Through the years, the spelling changed and became what we commonly refer to as the cigar. We changed the spelling a bit and developed XIKAR as both our company name and our product brand. But with that name came every possible mispronunciation imaginable, you name it, we've heard it. We've had consultants advise us to change our name because they say it's too difficult,

and therefore has limited value."

The Opposer stated in response to the Applicant's First Set of Interrogatories and the supplementation of such interrogatories, that they also pronounce their name "Xikar": CI-CAR, which is the exact spelling of the Applicant's mark even though the Opposer has never used such pronunciation. They also stated in response to the Applicant's interrogatories that "Opposer does not claim an exclusive right to use the word "cicar", (Exhibit 47, Interrogatory No. 7 of the Applicant's First Set of Interrogatories). The Applicant's mark is not a word and this statement is greatly disturbing, for the Opposer has no right to use my mark "Cicar", but is stating in such response that they have a right to do so. If anyone is encroaching on another's mark it is the Opposer who is encroaching on the Applicant's mark.

The mark "Cicar" represents only one product name in a line of various product names. All of the goods sold by the Applicant are clearly sold under the house mark "Bram Warren" with a distinct logo design and slogan "I don't make the cigar, I create the atmosphere (Exhibits 1-4).

2. "Cicar" and "Xikar" marks are not used to sell identical products

As to the Opposer's claim that our marks are used to sell identical goods; the goods listed in the application for registration of the Opposer's mark "Xikar" are "cigar cutters" only, while the goods listed in the application for the Applicant's mark "Cicar" are "ashtrays for smokers". All of the products currently sold by the Applicant are "ashtrays for smokers" which are sold under various product names and further under various style names, (Exhibits 1-2, and 4). "It is well established that the issue of likelihood of confusion in a proceeding such as this must be determined on the basis of the identification of goods or services set forth in defendant's involved registration vis-á-vis the identification of goods and services in plaintiffs registration", Mattel, Inc. v. Funline Merchandise Co., Inc., 81 U.S.P.Q.2d 1372, (TTAB 2006). "With respect to the goods, as often stated, Board proceedings are concerned with registrability and not use of a mark and, thus, the common identification of goods in the registration and application herein frames the issue, Centraz Indus. Inc. v. Spartan Chem. Co. Inc., 77 U.S.P.Q. 2d 1698 (TTAB 2006). In re Iolo Techs., LLC, 95 U.S.P.Q.2d 1498, (TTAB 2010), states "the authority is legion"

that the question of registrability of an applicant's mark must be decided on the basis of the identification of goods set forth in the application regardless of what the record may reveal as to the particular nature of the Applicant's goods, the particular channels of trade or class of purchasers to which the sales of goods are directed".

The Applicant's mark "Cicar" is used on products made by one artist "Bram Warren". This is clearly stated on the Applicant's website; in the Applicant's catalog; and on the retail cards sold with the products. All of the products sold by the Applicant bear Bram Warren's signature (Exhibits 1, 4 and 5). The Applicant's products are all artist based goods and as such should also be considered art. This differentiates the Applicant's products from the Opposer's products. In addition, there is no "vehicle ashtray" in today's marketplace that is like the Applicant's "vehicle ashtray", Exhibit 1, 2, 4, and 61, showing the Applicant's products sold under the mark "Cicar" and Exhibit 62 showing the Opposer's "vehicle ashtray". I have attached an article from Cigar Aficionado December 2012 edition, Made for You section (Exhibit 61) positively reviewing the Applicant's product sold under the mark "Cicar" and distinguishing it from other ashtrays sold in today's marketplace.

While the Opposer's mark may be the only claimed distinction between their products and others, the Applicant's products themselves are unique and can be distinguished from others. It is an insult that the Opposer is claiming that the Applicant's product mark will somehow confuse consumers and they will be lead to believe the Applicant or her products are associated with the Opposer. "Bram Warren" ashtrays are included in a list of "The 25 Coolest Ashtrays You Can Buy Right Now" by Sam Lockhart written February 22, 2013 (\$14.50 listed is for shipping only), www.complex.com/art-design, (Exhibit 63). Bram Warren ashtrays are listed as No.3 of the "The Five Best Cigar-Related Father's Day Gifts" based on a study by internet cigar retailer WhatsKnotToLove, (Exhibit 63, the Opposer is No. 5 on the list). If you search the term "cigar ashtrays" on (Exhibit 2 and 65) www.google.com, "Bram Warren" ashtrays are the first two ashtrays shown under "images for cigar ashtrays" and if you click on the link "Bram Warren" ashtrays are shown repeatedly in the search. I have included a website page www.worthpoint.com showing that "Bram Warren" ashtrays were sold at the 2004 RTDA in Las Vegas and became an instant

hit (Exhibit 66) and website pages from February 3, 2005 which show "Bram Warren" ashtrays sold on www.mrcigars.com (Exhibit 67). Bram Warren has been manufacturing cigar ashtrays long before the Opposer entered the market to sell ashtrays in connection with their mark "Xikar. The article from www.seriouscigars.com discusses "Bram Warren" ashtrays, with comments such as "Bram Warren ashtrays are a true hit among cigar aficionados (Exhibit 68). They are made in the United States of America and are very popular because of their uniqueness. These lovely and elite ashtrays can be found in multi-million dollar homes and are nothing less than stunning". The Opposer's registration is for "cigar cutters" and the Opposer is not known for "ashtrays".

I submit my Affidavit, Exhibit 2 and Exhibit 69 to show a search I performed for "havana club ashtray" (havana club products, produced in Cuba) and a website from Europe (Exhibit 70) showing the sale of the "havana club ashtrays" and then I direct you to Exhibit 71 which shows an ashtray sold by the Opposer from their website and the similarities between the 2 ashtrays. The Opposer is apparently not concerned that their "havana collection ashtrays" and their origin may be confused with the "havana club ashtrays", but they are stating that my products which are unique and original art will be confused with their products because of the Applicant's product mark "Cicar".

3. Response to Opposer's claims as to related products and same channels of trade

As to the Opposer's claim that our marks are used to sell related goods; both the Applicant's mark "Cicar" and the Opposer's mark "Xikar" are registered in International Class 034. Class 34 is for "tobacco; smokers' articles; matches". The Applicant admits that both parties sell "smokers' articles" registered in the same class of goods, this is shown by the parties application and registration for their respective marks.

As to the Opposer's claim that the parties sell products through the same channels of trade, both parties sell their products to retail stores who in turn re-sell them to consumers and both parties have websites. When I or anyone on my behalf contacts a retail merchant the source of the Applicant's goods are clearly explained to the merchant. The origin of the Applicant's goods are always explained in order to separate them from other goods, as they are considerably more expensive than other products sold to

such merchants. Merchants can peruse the Applicant's products on the website www.bramwarren.com or through the catalog, (Exhibit 4). Since my products are all handmade by one man, supply is limited, and as such, are not sold similarly to the mass produced products sold by the Opposer.

4. "Xikar" is not entitled to broad protection

The Opposer has not proven fame or the right to broad protection in this matter. The Opposer has referenced ACOUSTIC WAVE and WAVE "a famous mark is one "with extensive public recognition and renown", "Acoustic Wave, with annual sales of over 50 million, Bose has spent more than \$5 million annually to advertise the covered products", Bose Corp. v. OSC Audio Prods. Inc., 293 F.3d 1367, 63 U.S.P.O.2d 1303 (Fed. Cir. 2002); FRITO-LAY and FIDO-LAY "in 1995, retail sales of FRITO-LAY products exceeded \$6 billion, and FRITO-LAY products enjoyed a greater than 50 percent market share in the estimated \$12.1 billion domestic snack industry, Recot spent about \$80 million in 1996 on advertising and promotion for products with the FRITO-LAY mark", Recot, Inc. v. M.C. Beacton, 214 F.3d 1322, 54 U.S.P.Q. 2d 1894(Fed. Cir. 2000); PLAY-DOH and FUNDOUGH "sale of Play-Doh products exceeded \$30 million, Kenner spent over 2 million in 1988 for advertising and promotion, at one time Play-Doh toys comprised 60-70% of the modeling compound market" Kenner Parker Toys, Inc. v. Rose Art Industries, Inc., 963 F.2d 350, 22 U.S.P.Q. 2d 1453 (Fed. Cir. 1992); VEUVE CLICQUOT, VEUVE CLICQUOT PONSARDIN and VEUVE ROYALE, "Veuve Clicquot champagne is the second leading brand sold in the U.S., Palm Bays President admitted that the VEUVE CLICQUOT mark is famous", Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin maison Fondee En 1772, 396 F.3d 1369, 73 U.S.P.Q.2d 1689 (Fed. Cir. 2005); DOMINO and DOMINO "American Sugar Refining Company, has used the word DOMINO as its trademark for sugar since 1891, the mark was registered in 1901, from 1948 to 1958 a six million dollar advertising expenditure contributed to national sales of 2,500,000,000", American Sugar Refining Co. v. Andreassen, 296 F.2d 783, 132 USPQ 10 (CCPA 1961); HUNT and HUNT, Hunt Foods "advertising expenses since 1943 of more than 46 million dollars, and sales, since 1944, in excess of 1 billion dollars", Hunt Foods and Industries, Inc. v. Gerson Stewart Corp., 367 F.2d 431, 151 USPQ 350 (CCPA 1966). The Opposer has compared themselves to the preceding companies

without offering evidence that such comparison could ever be warranted.

The Opposer has offered customer testimonials from their own website ww.xikar.com (Opposer's Exhibit 40), which is controlled by the Opposer and can be manipulated at will. There are only 110 postings some by the same people, spanning 9 years on the Opposer's own self-controlled website. If you look at the posts the comments are about "cigar cutters": "lighters": "cigars": "returns": "lighter fluid": and "knives", there are no postings concerning ashtrays. The Opposer has also submitted Xikar Facebook testimonials (Opposer's Exhibit 41); many of these testimonials discuss a return of the Opposer's product and only discuss the Opposer's "cigar cutters" and "lighters", there is no mention of ashtrays. The Opposer has also submitted postings from lounge.cigarfamily.com/archive from 2001 (Opposer's Exhibit 38) in which consumer confusion of the name is discussed and cigar cutters. Many of the postings are shown to be from the same persons and Kurt Van Keppel joins in the discussion multiple times. The Opposer submitted posts from puff.com (Opposer's Exhibit 43) which specify no date and discusses only "cigar cutters", "returns" and "defects". This discussion was started by someone who wrote an eleven paragraph review and at the end jokes he is not on the Xikar payroll. This is certainly not a disinterested person at the very least. The Opposer submitted pages from Cigar Aficionado forums cigaraficionado .com, (Opposer's Exhibit 44,) these posts are from 2009 and they are very few. The postings are not positive and they discuss consumer confusion of the Opposer's name; that the Opposer's products are now made in China and a consumer will not buy their products because of this. The Opposer submitted (Opposer's Exhibit 46) postings from amazon.com, these postings are again very few; only discuss "cigar cutters" and that the Opposer's "cigar cutter" seems to stick. They also include a post from someone who had trouble reaching the Opposer to return their cutter and when the replacement cutter arrived from the Opposer is was also defective. The Opposer submitted one undated page from www.cigarinternational (Opposer's Exhibit 45) with 6 postings about the Opposer's "cigar cutters" after a review of one of their cutters. Finally, the Opposer submitted postings from 1998 (Opposer's Exhibit 55) from lounge.cigarfamily.com, where Xikar is mentioned in only 3 postings about "cigar cutters". These postings can't truly be authenticated and can be placed by anyone with a computer including those

Xikar, Inc. v. Debra Wiseberg d/b/a Bram Warren Company

Opposition No. 91209617

Serial No. 85/652496

associated with the Opposer. You would have to thoroughly investigate all of the postings and the people

who made them to confirm there is not a link to the Opposer. These postings have limited to no value and

certainly do not prove fame.

VI. CONCLUSION AND REQUEST

This matter concerns numerous issues and facts and I could not address all of my arguments and

have mostly just responded to the Opposer's arguments in their MSJ. I respectfully request the Board

decide this motion in favor of the Applicant and deny the Opposer's Motion for Summary Judgment and I

would further request that the Board, if after reviewing the evidence and arguments I have submitted thus

far, concludes that there " is no genuine dispute of material fact, but that the nonmoving party is the one

entitled to judgment as a matter of law" that the Board "grant summary judgment in favor of the

nonmoving party", TBMP § 528.01, Note 17.

If this matter proceeds to trial after disposition of the Opposer's Motion for Summary Judgment, I

request the Board allow the Applicant sufficient time to file a Motion to Compel discovery responses

before the Opposer's testimony period begins.

Dated: April 16, 2014.

Respectfully submitted,

Debra Wiseberg d/b/a Bram Warren Company

18100 S.W. 50 Street

Southwest Ranches, FL 33331

Telephone No.: (954) 297-0329

Email: bramwarren@bramwarren.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Applicant's Response to the Opposer's Motion

for Summary Judgment, Brief in Support of Response, and Exhibits were sent to the counsel for the

Opposer by the United States Postal Service, first class mail on April 16, 2014 to the following

address:

Ginnie C. Derusseau

Erickson, Kernell, Derusseau & Kleypas LLC

8900 State Line Road, Suite 500

Leawood, KS 66206

By: Debra Wiseberg

25

Bram Warren Ashtray Collection

Submitted by Debra Wiseberg Applicant in Opposition No. 91209617

Home Contact Us Colloquy Striker Coterie Chamber Cicar Cinder Order Form Xikar v. Debra Wiseberg d/b/a Bram Warren Company

Home

Bram Warren cigar ashtray collection represents artistic functional design. Five cigar ashtray styles are featured in an array of cutting edge colors and unique finishes to reflect individual choice and taste. Crafted from a foundation of generous proportion and timeless design to create the perfect balance of form and function. Each cigar ashtray is a handmade original manufactured with the finest quality ceramic materials and signed by the artist, Bram Warren.



ASHTRAY COLLECTION

- Colloquy Striker™ (9"L x 9"W x 2.5H) Featuring four large cigar grooves and an oversized ash well that can accommodate the largest ring gauge cigars. The Colloquy™ has an innovative removable match caddy with a speciality strike surface, so there is always a light close by.
- Coterie[™] (9.5"Diam.) Low profile by design, the ashtray features three large cigar grooves and a wide ash well to ensure the most enjoyable smoking experience.
- Chamber™ (7.5"Lx 4.5"Wx 2"H) This ashtray features a long cigar groove and a deep ash well, perfect for an uninterrupted cigar break. Custom real gold or platinum monograms are available in select colors.
- Cicar[™] (6.75"L x 4"W) Inspired by the "cigar leaf" the Cicar™ is a hand sculpted car cigar ashtray that will add pleasure and elegance to any drive. Featuring a deep ash well and generous cigar groove. Simply place in the vehicle's beverage holder and enjoy. A custom storage bag is included for added convenience.
- Cinder™ (3"Diam.) Designed exclusively for cigarillos and cigarettes, the Cinder™ is a wonderful companion to morning coffee and a newspaper.



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Bram Warren Ashtray Collection

Contact Us Colloquy Striker Coterie Chamber Cicar Cinder Order Form

Colloquy Striker

Colloquy TM (954)297-0329

Striker[™]

{Customer Service & Sales}

\$155.00 USD

continental U.S.A)

(free shipping within the

{orders shipped within 1-3 weeks}



(Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



{Place mouse over cigar ashtray to enlarge} Quadruple Cigar Ashtray with Removable Match Caddy



{Place mouse over cigar ashtray to enlarge} Quadruple Cigar Ashtray with Removable Match Caddy



(Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



(Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



{Place mouse over cigar ashtray to enlarge} Quadruple Cigar Ashtray with Removable Match Caddy



Hepburn (Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



(Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



(Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



1083 Celsius

(Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



Emerald Pool

(Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



Tobacco Road

(Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



Cocoa Bash

(Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



Cobalt Odyssey

(Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



Blueberry Fields

{Place mouse over cigar ashtray to enlarge} Quadruple Cigar Ashtray with Removable Match Caddy



Mystic Medallion

(Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



(Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



Mod

(Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



Snake Skin

(Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



Oceania

(Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



Pompeii

(Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



(Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



Avalanche

(Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



(Place mouse over cigar ashtray to enlarge) Quadruple Cigar Ashtray with Removable Match Caddy



{Place mouse over cigar ashtray to enlarge}
Quadruple Cigar Ashtray with
Removable Match Caddy



Angel Falls

{Place mouse over eigar ashtray to enlarge}
Quadruple Cigar Ashtray with
Removable Match Caddy



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Bram Warren Ashtray Collection

Home Contact Us Colloquy Striker Coterie Chamber Cicar Cinder Order Form

Coterie

Coterie[™]

(954)297-0329

{Customer Service & Sales}

\$85.00 USD

(free shipping within the continental U.S.A.) (orders shipped within 1-3 weeks)



Aqua Oasis (Place mouse over cigar ashtray to enlarge) Triple Cigar Ashtray



1083 Celsius (Place mouse over cigar ashtray to enlarge) Triple Cigar Ashtray



Cobalt Odyssey mouse over cigar ashtray to enlarge) Triple Cigar Ashtray



Babylon (Place mouse over cigar ashtray to enlarge) Triple Cigar Ashtray



Raku Blue (Place mouse over cigar ashtray to enlarge) Triple Cigar Ashtray



Cocoa Bash (Place mouse over cigar ashtray to enlarge) Triple Cigar Ashtray



(Place mouse over cigar ashtray to enlarge)

Triple Cigar Ashtray



Bronze Cobalt (Place mouse over cigar ashtray to enlarge)

Triple Cigar Ashtray



Grasshopper (Place mouse over cigar ashtray to

Triple Cigar Ashtray



Pompeii (Place mouse over cigar ashtray to enlarge)



Dark Elements (Place mouse over cigar ashtray to enlarge)



Snake Skin (Place mouse over cigar ashtray to enlarge)

Coterie Triple Cigar Ashtray by Bram Warren - cigar ashtrays - mens gifts

Triple Cigar Ashtray

Triple Cigar Ashtray

Triple Cigar Ashtray



Emerald Pool

(Place mouse over cigar ashtray to enlarge) **Triple Cigar Ashtray**



Blueberry Fields

(Place mouse over cigar ashtray to enlarge) **Triple Cigar Ashtray**



Mystic Medallion

{Place mouse over cigar ashtray to enlarge}

Triple Cigar Ashtray



Bronze Eclipse

{Place mouse over cigar ashtray to enlarge}
Triple Cigar Ashtray



Ego

(Place mouse over cigar ashtray to enlarge)

Triple Cigar Ashtray



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Bram Warren Ashtray Collection

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Cicar

CicarTM

(954)297-

0329 Fits in the vehicle's beverage holder Sales}

{Customer Service &

\$105.00

USD

continental U.S.A}

{orders shipped within 1-3 weeks}

(free shipping within the



Emerald Pool {Place mouse over cigar ashtray to enlarge} Car Cigar Ashtray



Tortoiseshell {Place mouse over cigar ashtray to enlarge} Car Cigar Ashtray



Candela {Place mouse over cigar ashtray to enlarge} Car Cigar Ashtray



Valley of Fire {Place mouse over cigar ashtray to enlarge} Car Cigar Ashtray



Green Dragon {Place mouse over cigar ashtray to enlarge} Car Cigar Ashtray



1083 Celsius {Place mouse over cigar ashtray to enlarge} Car Cigar Ashtray



Chrome

{Place mouse over cigar ashtray to enlarge}
Car Cigar Ashtray



Bronze

{Place mouse over cigar ashtray to enlarge}
Car Cigar Ashtray



Onyx

{Place mouse over eigar ashtray to enlarge}
Car Cigar Ashtray



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Bram Warren Ashtray Collection

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Chamber

Chamber™

(954)297-

0329

{Customer Service & Sales}

\$45.00

USD

U.S.A)

(free shipping within the continental

(orders shipped within 1-3 weeks)



Cocoa Bash {Place mouse over cigar ashtray to enlarge} Single Cigar Ashtray



Flambe {Place mouse over cigar ashtray to enlarge} Single Cigar Ashtray



Bronze
(Place mouse over cigar ashtray to enlarge)
Single Cigar Ashtray



Mystic Merlot
(Place mouse over cigar ashtray to enlarge)
Single Cigar Ashtray



Snake Skin {Place mouse over cigar ashtray to enlarge} Single Cigar Ashtray



Limestone
(Place mouse over cigar ashtray to enlarge)
Single Cigar Ashtray



1083 Celsius {Place mouse over cigar ashtray to enlarge} Single Cigar Ashtray



Crystalline
(Place mouse over cigar ashtray to enlarge)
Single Cigar Ashtray



Cobalt

[Place mouse over cigar ashtray to enlarge]

Single Cigar Ashtray



Beryl Blue (Place mouse over cigar ashtray to enlarge) Single Cigar Ashtray



Onyx (Place mouse over cigar ashtray to enlarge) Single Cigar Ashtray



Roman Stone (Place mouse over cigar ashtray to enlarge) Single Cigar Ashtray



Mandarin Single Cigar Ashtray

Custom Monograms

\$70.00 USD

Custom real gold or platinum monograms are available in two different fonts in the following select colors in the Chamber™ series. You may choose either font style and either real gold or platinum initials in any one of the select colors below. Place your order by telephone, fax, email, or by using our order form.



1083 Celsius Gold Old English Font



Cobalt Onyx Font



(Place mouse over cigar ashtray to enlarge) {Place mouse over cigar ashtray to enlarge} {Place mouse over cigar ashtray to enlarge}



(Place mouse over cigar ashtray to enlarge)



(Place mouse over cigar ashtray to enlarge)



Bram Warren Ashtray Collection

Home Contact Us Colloquy Striker Coterie Chamber Cicar Cinder Order Form

Contact Us



Contact us or place an order by telephone, email, or on this website. You can place an order on our website by filling out our order form and clicking the submit button. The order form is sent directly to us and we will contact you with your order confirmation {make sure to include your telephone number and email address, so that we can complete your order}. We accept payment by check, money order, credit or debit card. If you choose to pay by debit or credit card an invoice will be emailed to you securely through PayPal and you can pay and print the invoice by clicking on the appropriate buttons. Applicable sales tax will be added to orders shipped within the state of Florida. Shipping charges will be added to purchases shipped outside the continental U.S.A. Orders will be shipped within 1 to 3 weeks after receipt of your payment.

Telephone Number: (954) 297-0329

Email Address: bramwarren@bramwarren.com

Mailing Address: Bram Warren Company, P.O. Box 268032,

Weston, Florida 33326

Refund Policy

We have a "No Refund Policy". The products we manufacture are all handmade original art, variations are expected as no two pieces are exactly alike. Each item is inspected before it is shipped for quality assurance. All items should be inspected immediately upon receipt for any damages that may have occurred during shipping, so that a claim may be made against the shipping carrier.

Privacy Policy

We will not share with a third party any information that you supply to us except as needed to complete the financial transaction involved with your purchase.

Shipping Policy

The free shipping offered with your purchase is for "ground" shipping only. Shipment orders in some cases require a signature for you to receive your order from the shipping carrier. If we ship your order and after repeated delivery attempts {Note: In some cases the packages can be held at the shipping carrier for an additional period of time} you do not accept receipt of your order then the purchaser shall be responsible for the additional cost to reship the order.

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Bram Warren Ashtray Collection

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Order Form

Order Form

Fill out the order form below and click the submit button. You may order one or multiple different items by checking the appropriate check box next to the item. After you submit your order form we will contact you with your order confirmation. Include your email or telephone number, so that we may complete your order. If you choose to pay by debit or credit card an invoice will be emailed to you securely through PayPal and you pay for your order and print the invoice by clicking on the appropriate buttons. We have a "No Refund Policy". Applicable sales tax will be added to orders shipped within the state of Florida. Shipping charges will be added to all orders shipped outside the continental U.S.A. Orders will be shipped 1-3 weeks after receipt of payment. If you have any questions, please contact us at (954) 297-0329. BRAM WARREN COMPANY

Purchaser's Name:	
Purchaser's Telephone:	
Purchaser's Email:	
Purchaser's Address:	4
Shipping Address (if different than purchaser's address):	<i>h</i> .
Colloquy Striker TM Quadruple Cigar Ashtray with Removable Match Caddy	□ 1083 Celsius (cs) □ Alter Ego (cs) □ Angel Falls (cs) □ Ankh (cs) □ Aqu Oasis (cs) □ Avalanche (cs) □ Babylon (cs) □ Blueberry Fields (cs) □ Coba Odyssey (cs) □ Cocoa Bash (cs) □ Coral Reef (cs) □ Ego (cs) □ Elements (cs) □ Emerald Pool (cs) □ Hepburn (cs) □ Luna (cs) □ Miami "84" (cs) □ Mod (cs) □ Mystic Medallion (cs) □ Oceania (cs) □ Pompeii (cs) □ Raku Blu (cs) □ Snake Skin (cs) □ Tobacco Road (cs) □ Valley of Fire (cs) □ Woodsman (cs)
Coterie™ Triple Cigar Ashtray	□ 1083 Celsius (ct) □ Ankh (ct) □ Aqua Oasis (ct) □ Babylon (ct) □ Blueberry Fields (ct) □ Bronze Cobalt (ct) □ Bronze Eclipse (ct) □ Cobalt Odyssey (ct) □ Cocoa Bash (ct) □ Dark Elements (ct) □ Ego (ct) □ Emerali Pool (ct) □ Grasshopper (ct) □ Mystic Medallion (ct) □ Pompeii (ct) □ Rakl Blue (ct) □ Snake Skin (ct)
Chamber™ Single Cigar Ashtray	□ 1083 Celsius (ch) □ Beryl Blue (ch) □ Bronze (ch) □ Cobalt (ch) □ Cocc Bash (ch) □ Crystalline (ch) □ Flambe (ch) □ Limestone (ch) □ Mandarin (cl □ Mystic Merlot (ch) □ Onyx (ch) □ Roman Stone (ch) □ Snake Skin (ch)
Monogrammed Chamber™	□ 1083 Celsius (mch) □ Beryl Blue (mch) □ Cobalt (mch) □ Mandarin (mcl □ Onyx (mch) □ Oflod ○ Platinum
Initials (in order of placement):	☐ Old English Font ☐ Onyx Font

Order Form - Bram Warren Cigar Ashtray Collection - cigar ashtrays

Fill in initials above

Cicar TM Car Cigar Ashtray	□ 1083 Celsius (cc) □ Bronze (cc) □ Candela (cc) □ Chrome (cc) □ Emera Pool (cc) □ Green Dragon (cc) □ Onyx (cc) □ Tortoiseshell (cc) □ Valley of Fire (cc)
Cinder TM Cigarillo Ashtray	□ Ace in the Hole (cn) □ Ankh (cn) □ Aqua Oasis (cn) □ Blueberry Fields (cn) □ Calypso (cn) □ Cocoa Bash (cn) □ Emerald Pool (cn) □ Flambe (cn □ Grasshopper (cn) □ Luna (cn) □ Miami "84" (cn) □ Mod (cn) □ North Sta (cn) □ Pompeii (cn) □ Raku Blue (cn) □ Snake Skin (cn) □ USS Avalanche (cn) □ Valley of Fire (cn)
Payment Method	O Check O Money Order O Credit or Debit Card Submit Reset

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EXHIBIT "2" (3 Pages) Submitted by Bram Warren Company, Applicant Opposition No 91209617 Xikar, Inc. v. Debra Wiseberg

AFFIDAVIT

- I, Debra Wiseberg do hereby declare that the following statements are true and that the attached documents are true and correct copies of such documents.
- 1.) A copy of the Applicant's logo as Exhibit 3.
- Applicant's product catalog that has been used by the Applicant and her predecessor to induce interstate sales since June, 2011 as Exhibit 4.
- Retail card for the Applicant's product baring the mark "Cicar", attached to this document as Exhibit 5.
- 4.) Picture of the bottom of the "Cicar" vehicle ashtray showing Bram Warren's signature as Exhibit 6.
- 5.) Picture of the storage bag include with the purchase of a "Cicar" vehicle ashtray as Exhibit 7.
- 6.) Picture of the box in which the "Cicar" vehicle ashtray is sold as Exhibit 8.
- Dictionary definition for "cigar", The American Heritage Dictionary of the English Language Fifth Edition, Page 335, Houghton, Mifflin Harcourt Publishing Company 2011 as Exhibit 25.
- 8.) Dictionary definition for "cigar", The American Heritage Dictionary of the English Language Fourth Edition, Page 335, Houghton, Mifflin Harcourt Publishing Company 2006, 2000 as Exhibit 26.
- Dictionary definition for "cigar", America's Favorite Dictionary, The American Heritage College Dictionary Fourth Edition, Page 260, Houghton, Mifflin Company 2004 as Exhibit 27.
- Dictionary definition for "cigar", Eric Partridge, Origins A Short Etymological
 Dictionary of Modern English, Page 98, Routledge and Kegan Paul as Exhibit 28.

- Dictionary definition for "cigar", New Oxford American Dictionary Third Edition, Page
 Oxford Press, Inc. 2010 as Exhibit 29
- Dictionary definition for "cigar", Encarta World English Dictionary, Page 329, St.
 Martins Press Bloomsbury Publishing 1999 as Exhibit 30.
- 13.) Internet search on Google performed by Debra Wiseberg on August 13, 2013, of the terms "mayan civilization and cigars", the Opposer's website www.xikar.com is the first result in the search, attached to this document as Exhibit 52.
- 14.) Internet search on Bing www.bing.com performed by Debra Wiseberg on April 15, 2013, of the terms "mayan civilization and cigars", the Opposer's website www.xikar.com is the first result in the search as Exhibit 53.
- 15.) Internet search on Bing www.bing.com performed by Debra Wiseberg on May 5, 2013, of the term "havana club ashtray", attached to this document as Exhibit 69.
- 16.) Internet search on Bing www.bing.com performed by Debra Wiseberg for the word "Zikar" on April 15, 2013 and April 16, 2014 as Exhibits 58 and 59.
- 17.) Internet search on Google performed by Debra Wiseberg on April 16, 2014 for the word "zikar" as Exhibit 60.
- 18.) Internet search on Google performed by Debra Wiseberg on April 11, 2014 for the term "cigar ashtrays" and images as Exhibit 65.
- 19.) The Applicant has included as Exhibits, documents produced by the Opposer in response to the Applicant's First Set of Interrogatories or documents the Opposer has attached to their Motion for Summary Judgment. The documents received by the Applicant in response to interrogatories that have been introduced into evidence were documents I included in my Request for Admissions, where the Opposer inappropriately did not answer such requests and was evasive, attached as Exhibit 72.

DATED: April 16, 2014

Debra Wiseberg d/b/a Bram Warren Company

18100 S.W. 50 Street

Southwest Ranches, FL 33331 Telephone No.: (954) 297-0329

Email: bramwarren@bramwarren.com

NOTARY ACKNOWLEDGEMENT

This instrument was acknowledged before me on this 16th day of April, 2014 by

Debra Wiseberg who has produced a driver's license for identification.

Notary Public

My Commission Expires: 12/15/2017

NOTARY SEAL

EXHIBIT "3"
Submitted by Debra Wiseberg
Applicant in Opposition No. 91209617

Xikar v. Debra Wiseberg d/b/a Bram Warren Company

M

EXHIBIT "4" (12 pages)

Submitted by Debra Wiseberg

Applicant in Opposition No. 91209617

Xikar v. Debra Wiseberg d/b/a Bram Warren Company



BRAM WARREN



Bram Warren represents one of the last bastions of handmade craftsmanship, recognized for his exclusive custom designed cigar ashtrays. The integration of old world skills combined with modern advancements work together in a unique and seamless way. Five cigar ashtray styles are featured in an array of cutting edge colors and sought after finishes to reflect individual choice and taste that will satisfy even the most discerning palette. Crafted from a foundation of generous proportion and timeless



design merging as one to create the perfect balance of form and function. Each cigar ashtray is manufactured with the highest quality ceramic materials and is hand signed by the artist, Bram Warren.



Ashtray Collection

Colloquy Striker (9"L x 9" W x 2.5" H) Pages 1-3 Featuring four large cigar grooves and an oversized ash well that can accommodate the largest ring gauge cigars. The Colloquy has an innovative removable match caddy with a speciality strike surface, so there is always a light close by.



Coterie (9.5" Diam.) Pages 4-5 Low profile by design, the ashtray features three large cigar grooves and a wide ash well to ensure a most enjoyable smoking experience.



Chamber (7.5" L x 4.5" W x 2" H) Page 6 This ashtray features a long cigar groove and deep ash well, perfect for an uninterupted cigar break. Custom real gold or platinum monogrammed initials in either Old English or Onyx font are available in select colors. Merchants please ask us about our sales display.



CICAT (6.75" L x 4" W) Page 7 Inspired by the "cigar leaf" the Cicar is a hand sculpted car ashtray that will add pleasure and elegance to any drive. Featuring a deep ash well and generous cigar groove. Simply place in the vehicles beverage holder and enjoy. Storage bag included for added convenience.



Cinder (3" Diam.) Page 8 Designed exclusively for cigarillos and cigarettes, the Cinder is a wonderful companion to morning coffee and a newspaper.

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Colloquy Striker

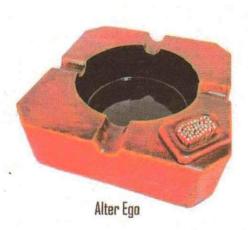


















Colloquy Striker



















Colloquy Striker



Angel Falls

Woodsman

Coterie TM



Aqua Dasis



1083°C



Raku Blue



Babylon



Cobalt Odyssey



Cocoa Bash





Bronze Eclipse



Grasshopper

Coterie TM



Pompeii



Dark Elements



Snake Skin



Emerald Pool



Blueberry Fields



Mystic Medallion



Bronze Cobalt



Ego

Chamber MARREN CTM





Опух



Emerald Pool



Valley of Fire



Chrome



Tortoiseshell



Green Oragon



Branze 7



Candela





Опух

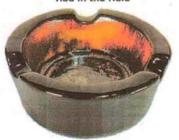
CinderTM



Cocoa Bash



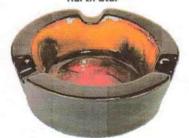
Ace in the Hale



Ankh



North Star



Valley of Fire



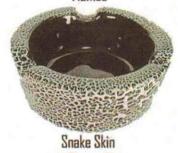
Mad

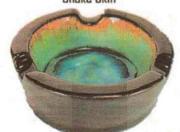


Miami "84"



Flambe





Aqua Dasis



Calypso



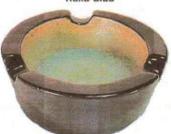
Emerald Pool 8



Pampeii



Raku Blue



Luna



Blueberry Fields



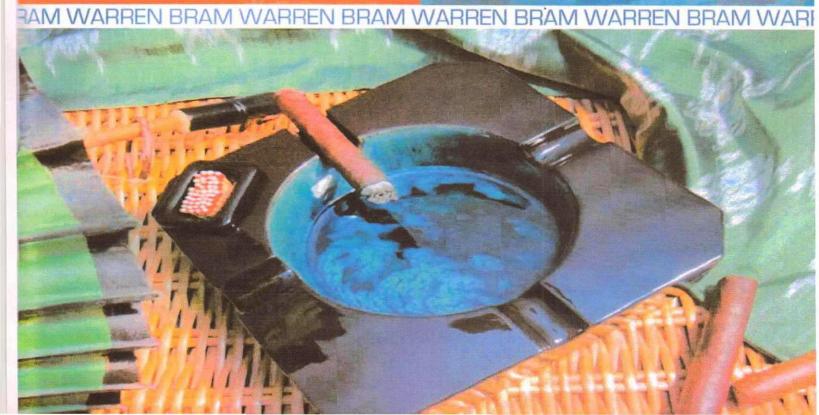
Grasshopper



USS Avalanche



AM WARREN BRAM WARREN BRAM WARREN BRAM WAR



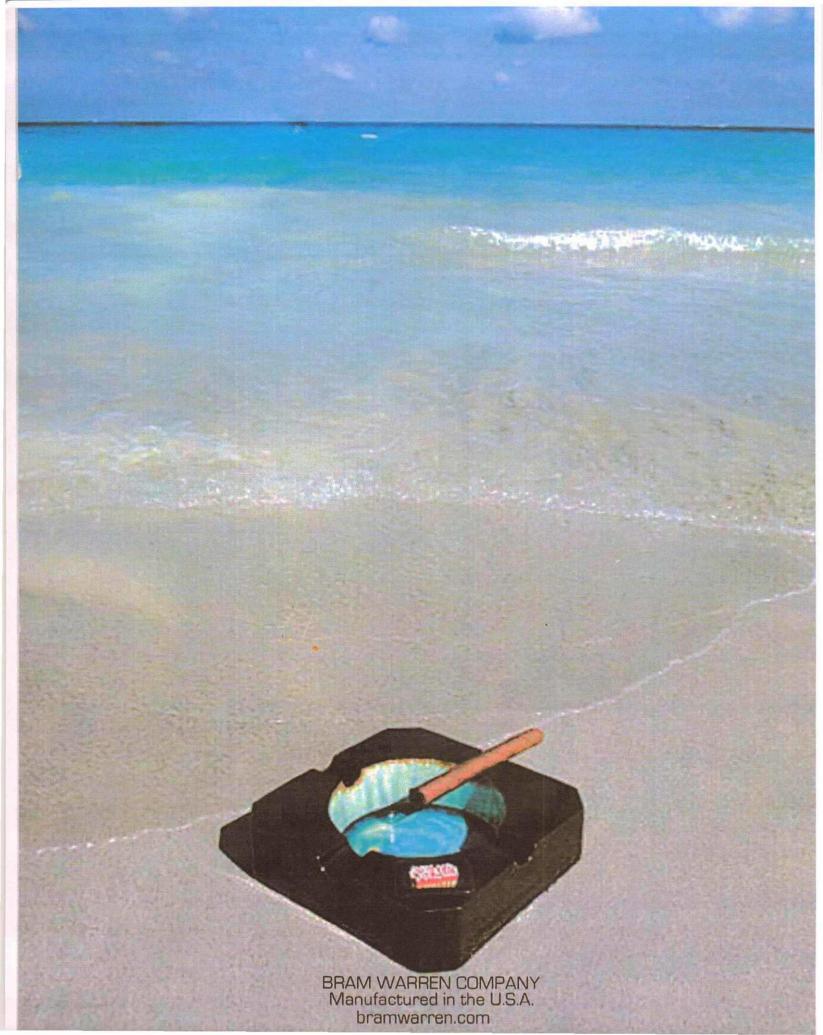


EXHIBIT "5" Submitted by Debra Wiseberg Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

MANNA MANNA TANA SAN TANA SAN

This original Bram Warren car cigar ashtray is hand crafted and signed by the artist. Made with the finest quality ceramic materials in the U.S.A.

CICAR

Car Cigar Ashtray

The Cicar™ is hand sculpted in a rendition of a cigar leaf. Simply place in the vehicle's beverage holder and enjoy.

Bram Warren Company
Manufactured in the U.S.A.

EXHIBIT "6" Submitted by Debra Wiseberg Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

Signed Bottom of the "Cicar" ashtray



EXHIBIT "7" Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

Picture of "Cicar" Storage Bag

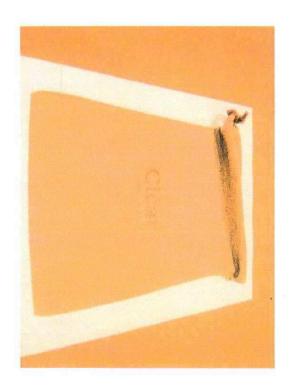
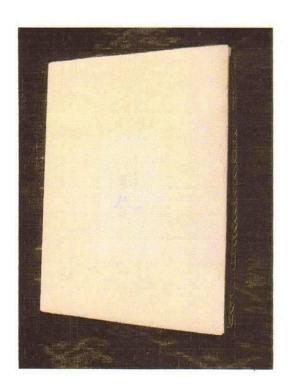
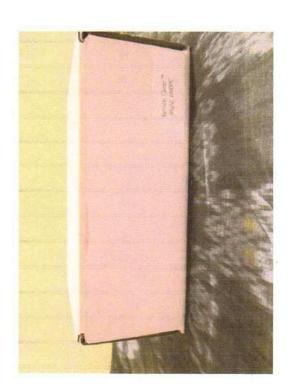


EXHIBIT "8" (2 Pages) Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

Picture of Box "Cicar" is sold in





Wikipedia: About Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617

EXHIBIT "9" (2 Pages)

From Wikipedia, the free encyclopedia

Xikar v. Debra Wiseberg d/b/a Bram Warren Company

About · Welcome · Help menu · Tutorial · FAQ · Where to ask questions · Ref desk · Help desk · Wikicode · Glossary

This is a general introduction for visitors to Wikipedia. The project also has an encyclopedia article about itself, Wikipedia, and some introductions for aspiring contributors. For information on how to donate to the organization that runs Wikipedia, see Ways to Give.

See also: Wikipedia:FAQ and Wikipedia:Citing Wikipedia

Wikipedia (1) wiki pi:di.ə/ or 1) wiki pi:di.ə/ wik-i-PEEdee-a) is a multilingual, web-based, free-content encyclopedia project supported by the Wikimedia Foundation and based on an openly editable model. The name "Wikipedia" is a portmanteau of the words wiki (a technology for creating collaborative websites, from the Hawaiian word wiki, meaning "quick") and encyclopedia. Wikipedia's articles provide links designed to guide the user to related pages with additional information.

Wikipedia is written collaboratively by largely anonymous Internet volunteers who write without pay. Anyone with Internet access can write and make changes to Wikipedia articles, except in limited cases where editing is restricted to

prevent disruption or vandalism. Users can contribute anonymously, under a pseudonym, or, if they choose to, with

The fundamental principles by which Wikipedia operates are the five pillars. The Wikipedia community has developed many policies and guidelines to improve the encyclopedia; however, it is not a formal requirement to be familiar with them before contributing.

Since its creation in 2001, Wikipedia has grown rapidly into one of the largest reference websites, attracting 470 million unique visitors monthly as of February 2012.^[1] There are more than 76,000 active contributors (//en.wikipedia.org/wikistats/EN/TablesWikipediansEditsGt5.htm) working on more than 31,000,000 articles in 285 languages. As of today, there are 4,493,055 articles in English. Every day, hundreds of thousands of visitors from around the world collectively make tens of thousands of edits and create thousands of new articles to augment the knowledge held by the Wikipedia encyclopedia. (See the statistics page for more information.)

People of all ages, cultures and backgrounds can add or edit article prose, references, images and other media here. What is contributed is more important than the expertise or qualifications of the contributor. What will remain depends upon whether the content is free of copyright restrictions and contentious material about living people, and whether it fits within Wikipedia's policies, including being verifiable against a published reliable source, thereby excluding editors' opinions and beliefs and unreviewed research. Contributions cannot damage Wikipedia because the software allows easy reversal of mistakes and many experienced editors are watching to help ensure that edits are cumulative improvements. Begin by simply clicking the *Edit* link at the top of any editable page!

English Wikipedia right now

Wikipedia is running MediaWiki version 1.23wmf21 (7ff5d54). It has 4,493,055 content articles, and 32,673,244 pages in total. There have been 709,456,795 edits. There are 828,774 uploaded files. There are 21,148,669 registered users, including 1,406 administrators.

This information as of 15:48, 15 April 2014 (UTC)

their real identity.

Wikipedia is a live collaboration differing from paper-based reference sources in important ways. Unlike printed encyclopedias, Wikipedia is continually created and updated, with articles on historic events appearing within minutes, rather than months or years. Older articles tend to be more comprehensive and balanced; newer articles may contain misinformation and/or unencyclopedic content. Any article may contain undetected vandalism. Awareness of this helps the reader to obtain valid information and avoid recently added misinformation (see Wikipedia: Researching with Wikipedia).

What Wikipedia is not explains Wikipedia's scope. More information on key topics appears hereafter. Further advice is at Wikipedia:FAQ, Wikipedia:Advice for parents, and Wikipedia:Questions. Wikipedia:General disclaimer warns you about Wikipedia's limitations. For help getting started with editing or other issues, see Help:Contents.

Contents

- 1 About Wikipedia
 - 1.1 Wikipedia history
 - 1.2 Trademarks and copyrights
 - 1.3 Wikipedia contributors
 - 1.4 Credits
- 2 Making the best use of Wikipedia
 - 2.1 Exploring Wikipedia
 - 2.2 Basic navigation in Wikipedia
 - 2.3 Using Wikipedia as a research tool
 - 2.4 Wikipedia vs paper encyclopedias
 - 2.5 Strengths, weaknesses, and article quality in Wikipedia
 - 2.6 Disclaimers
- 3 Contributing to Wikipedia
 - 3.1 Editing Wikipedia pages
 - 3.2 Wikipedia content criteria
 - 3.3 Editorial administration, oversight, and management
 - 3.4 Handling disputes and abuse
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- 5 Feedback and questions
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 - 5.2 Static help
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- 6 Other languages
- 7 Sister projects
- 8 See also
- 9 References
- 10 Further reading

EXHIBIT "10" (2 pages)

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

Cigar

From Wikipedia, the free encyclopedia

A cigar is a tightly-rolled bundle of dried and fermented tobacco that is ignited so that its smoke may be drawn into the mouth. Cigar tobacco is grown in significant quantities in Brazil, Cameroon, Cuba, the Dominican Republic, Honduras, Indonesia, Mexico, Nicaragua, the Philippines, Canary Islands (Spain), and the Eastern United States.

Contents

- 1 Etymology
- 2 History
 - 2.1 Historical figures
- 3 Manufacture
 - 3.1 Dominant manufacturers
 - 3.2 Families in the cigar industry
- 4 Marketing and distribution
- 5 Composition
 - 5.1 Wrappers
 - 5.2 Fillers
 - 5.3 Binders
- 6 Size and shape
 - 6.1 Parejo
 - 6.2 Figurado
 - 6.3 Little cigars
- 7 Smoking
 - 7.1 Cutting
 - 7.2 Lighting
 - 7.3 Flavor
 - 7.4 Smoke
- 8 Humidors
- 9 Accessories
 - 9.1 Cigar travel cases
 - 9.2 Cigar tubes
 - 9.3 Cigar holders
- 10 Health effects
- 11 Popularity
- 12 Cuban cigars
 - 12.1 United States embargo against Cuba
 - 12.2 Cigars specific to other countries
- 13 In popular culture
- 14 See also
- 15 Footnotes
- 16 Further reading



Four cigars of different brands (from top: H. Upmann, Montecristo, Macanudo, Romeo y Julieta)



A semi-airtight cigar storage tube and a double guillotine-style cutter

17 External links

Etymology

The word "cigar" originated from sikar, the Yucatec Mayan word for smoking, which became cigarro in Spanish, probably from the Mayan sikar ("to smoke rolled tobacco leaves" – from sik, "tobacco;") or from the Spanish word cigarra ("grasshopper"). However, the word itself, and variations on it, did not come into general use until 1730. New names for cigars include "Jules", "Havana", "Vitole" and "Puro".

[1] An older alternate spelling is "segar", [2] not uncommon in 19th century signs and advertisements.

History

Explorer Christopher Columbus is generally credited with the introduction of tobacco to Europe. Two of Columbus's crewmen during his 1492 journey, Rodrigo de Jerez and Luis de Torres, are said to have encountered tobacco for the first time on the island of Hispaniola, when natives presented them with dry leaves that spread a peculiar fragrance. Tobacco was widely diffused among all of the islands of the Caribbean and therefore they again encountered it in Cuba where Columbus and his men had settled. His sailors reported that the Taínos on the island of Cuba smoked a primitive form of cigar, with twisted, dried tobacco leaves rolled in other leaves such as palm or plantain.

In due course, Spanish and other European sailors adopted the hobby of smoking rolls of leaves, as did the Conquistadors, and smoking primitive cigars spread to Spain and Portugal and eventually France, most probably through Jean Nicot, the French ambassador to Portugal, who gave his name to nicotine. Later, the hobby spread to Italy and, after Sir Walter Raleigh's voyages to the Americas, to Britain. Smoking became familiar throughout Europe—in pipes in Britain—by the mid-16th century and, half a century later, tobacco started to be grown commercially in America. Tobacco was originally thought to have medicinal qualities, but there were some who considered it evil. It was denounced by Philip II of Spain and James I of England. [4]

Around 1592, the Spanish galleon *San Clemente* brought 50 kilograms (110 lb) of tobacco seed to the Philippines over the Acapulco-Manila trade route. The seed was then distributed among the Roman Catholic missionaries, where the clerics found excellent climates and soils for growing high-quality tobacco on Philippine soil.

In the 19th century, cigar smoking was common, while cigarettes were still comparatively rare. In the early 20th century, Rudyard Kipling wrote his famous smoking poem, "The Betrothed." The cigar business was an important industry, and factories employed many people before mechanized manufacturing of cigars became practical.

In 1869, Spanish cigar manufacturer Vicente Martinez Ybor moved his *Principe de Gales* (Prince of Wales) operations from the important cigar manufacturing center of Havana, Cuba to Key West, Florida to escape the turmoil of the Ten Years' War. Other manufacturers followed, and Key West became another important cigar manufacturing center. In 1885, Ybor moved again, buying land near the then-small city of Tampa, Florida and building the

EXHIBIT "11" (4 pages)

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

U.S. Patent & TMOfc/TM Mail Rept Dt. #26 08-03-1998

TRADEMARK

LAW OFFICE 105

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE 1998 AUG 12

Applicant: KURT VAN KEPPEL

Attorney Docket: VKKT.47949

Serial No. 75/152,549

Examiner: Karen Estilo Owczarski

Law Office: 105

Filed: August 19, 1996

TM: XIKAR

CERTIFICATE OF MAILING 37 C.F.R. 1.8

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Box Responses No Fee, Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3813, on;

RESPONSE

Box Responses No Fee Assistant Commissioner for Trademarks 2900 Crystal Drive Arlington, Virginia 22202-3513

Dear Sir:

In response to the Office Action of January 30, 1998, Applicant states as follows:

As requested by the Trademark Attorney, Applicant submits herewith three substitute specimens, together with a Declaration Under 37 C.F.R. § 2.20 declaring that these specimens were in use in commerce prior to the expiration of the time allowed to Applicant for filing his Statement of Use.

Applicant has also included in his Declaration a statement that the mark continues to be used in interstate commerce.

The specimens are in the form of bands bearing the mark which are placed around boxes containing the goods. Applicant considers these bands to be part of the packaging for the goods and therefore in compliance with the statement in Applicant's Statement of Use that the mark is used by applying it to packaging for the goods. However, if the Trademark Attorney disagrees, Applicant requests that the following be substituted for the method-of-use clause now of record:

-- The mark is used by applying it to bands placed around packaging or boxes for the goods, and in other ways customary to the trade .--

Having complied with the additional requirements of the Trademark Office, Applicant respectfully requests acceptance of its Statement of Use and issuance of a Certificate of Registration.

Respectfully submitted,

Constance M. Jordan Constance M. Jordan

SHOOK, HARDY & BACON L.L.P. One Kansas City Place 1200 Main Street Kansas City, Missouri 64105-2118

Telephone: (816) 474-6550

TRADEMARK

Commissioner for Trademarks, 2900 Crystal Drive,

Arlington, VA 22202,3513, on

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: KURT VAN KEPPEL	Attorney Docket: VKKT.47949
Serial No. 75/152,549) Examiner: Karen Estilo Owczarski
Filed: August 19, 1996) Law Office: 105
TM: XIKAR	Ś
	CERTIFICATE OF MAILING 37 C.F.R. 1.8
8	I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Box Responses No Fee, Assistant

DECLARATION UNDER 37 C.F.R. § 2.20

Box Responses No Fee Assistant Commissioner for Trademarks 2900 Crystal Drive Arlington, Virginia 22202-3513

Dear Sir:

The undersigned, KURT VAN KEPPEL, declares that:

Applicant submits substitute specimens in the form of bands bearing the mark which are placed around the packaging for the goods. Thus, the mark is used on packaging for the goods.

The substitute specimens submitted herewith were in use in commerce prior to the expiration of the time allowed to the Applicant for filing a Statement of Use.

The mark was first used on February 6, 1997. The mark was first used in interstate commerce on February 6, 1997, and continues to be used in interstate commerce.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that the facts set forth in this declaration are true; all statements made of his own knowledge are true; and all statements made on information and belief are believed to be true.

KURT VAN KEPPEL

Date: 7/22/1998

EXHIBIT "12"

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company



NEWS RELEASE

Date: May 1, 1997 FOR IMMEDIATE RELEASE MEDIA CONTACTS KURT VAN KEPPEL:1-888-266-1193 DAVID BYRNE: 1-816-943-1810

XIKAR®, INC. DEVELOPS STATE-OF-THE-ART CIGAR CUTTER FOR SALE TO CIGAR AFICIONADOS

Overland Park, KS - A high-tech cigar cutter now gives cigar enthusiasts the finest cigar cut with comfort and style. The XIKAR® (pronounced zicàr) cutter incorporates double-guillotine stainless steel blades with a spring-loaded design in an ergonomic aluminum case. The cutter is packaged in a glove-leather pouch for carrying comfort. Showcase wood boxes are also available for an additional fee. The cutter, at \$99.95 retail, will be widely available at cigar and fine accessory retail locations, through select mail order catalogs, and on the internet home site: http://www.xikar.com. Corporate Aficionados may order their logo on the cutter for company gifts in quantities of 25 or more. "Laser technology allows us to engrave logos onto the cutter to create the perfect gift for those who enjoy fine cigars," says David Byrne, Vice President of Operations at XIKAR®, Inc."

The cutter concept originates from the designer's search for utility among the luxury accessory market. "We felt a need for a cutter which matched utility and style for the refined cigar audience," says Kurt Van Keppel, President of XIKAR, Inc. "The resulting product utilizes the power of scissor pivot with a comfortable tear drop shape to make the cleanest cut of even the biggest cigars. Once enthusiasts feel the spring-loaded action of the XIKAR, cutter, they'll use nothing else."

The XIKAR® cutter enters an extremely hot consumer trend. According to the Cigar Association of America, 8 million US smokers puffed away 3.5 billion cigars in 1996. Young executives, 26-39 years-old, comprise the largest growing segment of this trend. They mostly enjoy big cigars. The XIKAR® name comes from the first Spanish translation of the word the Mayans had named the rolled leaf cylander they smoked for ceremonial occasions. The original "xikars" probably had tobacco and other dried leaf stimulants to enhance ceremonial experiences.

###

FOR A COPY OF THE MEDIA KIT, VISIT OUR INTERNET SITE AT WWW.XIKAR.COM

WWW.XIKAR.COM



EXHIBIT "13"

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

Xikar, Inc.: About

Page 1 of 1











XIKAR, INC. DEVELOPS STATE-OF-THE-ART CIGAR CUTTER FOR SALE TO CIGAR AFICIONADOS

Overland Park, KS--A high-tech cigar cutter now gives cigar enthusiasts the finest cigar cut with comfort and style. The XIKAR® (pronounced zicàr) cutter incorporates double-guillotine stainless steel blades with a spring-loaded design in an ergonomic aluminium case. The cutter is packaged in a glove-leather pouch for carying comfort. Showcase wood boxes are also available for an additional fee. The cutter, at \$99.95 retail, will be widely available at cigar and fine accessory retail locations, through select mail order catalogs, and on the Internet home site: http://xikar.com. Corporate Aficionados may order their logo on the cutter for company gifts in quantities of 25 or more. "Laser technology allows us to engrave logos onto the cutter to create the perfect gift for those who enjoy fine cigars," says David Byrne, Vice President of Operations at XIKAR®, Inc."

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Click the image for a high-resolution photo:









EXHIBIT "14" (2 Pages) Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617

Xikar v. Debra Wiseberg d/b/a Bram Warren Company



FOR IMMEDIATE RELEASE

Press Release

XIKAR: How to Pronounce it..and What it Means Kansas City Company Says Unusual Name Translates to Success If this email is text only, please visit

http://www.xikar.com/email/2003 prnce cnsm.html

Kansas City, MO - May 3rd, 2003 - Curious? Confused? Maybe a little of both? Company officials now want to set the record straight on what XIKAR means and how it became the recognized brand name for this Kansas City based manufacturer of precision cigar cutters and folding knives.

Xikar, pronounced Zy-car with the heavier accent on the first syllable, is actually a word of great historical significance, according to company founder and president, Kurt Van Keppel.

The original spelling was SIKAR, a Mayan Indian word for "cheroot" which they regularly smoked. When the

Spaniards discovered the Mayan culture, they also discovered the cheroot and began smoking this "cigar" for the first time, returning to their own country with it.

Through the years, the spelling changed and became what we commonly refer to as the cigar.

"We changed the spelling a bit and developed XIKAR as both our company name and our product brand," said Scott Almsberger, company vice president and chief product designer.

But with that name came every possible mispronunciation imaginable, Almsberger added. "You name it, we've heard it."

As a long-time marketer, however, Van Keppel knows the value in a company name. And in XIKAR's case, that value is high in terms of customer recognition, brand awareness and consumer loyalty.

"You don't forget XIKAR," Van Keppel states. "We are setting the standard for precision cutlery design."

"We've had consultants advise us to change our name because they say it's too difficult, and therefore has limited value," Van Keppel said. "I told them it's unique and recognized, and the value can be seen on the bottom line."

After seven years in business, that translates to success no matter how you say it.

About Xikar

Today, XIKAR cigar cutters and gentlemen's folding knives are sold worldwide through more than 3,000 dealers.

Most recently, the company has introduced several new products including the Xi3 Cutter, Xi 007 Twist Punch, MTX Multi-Tool, as well as a full line of fine pocket knives. These include the XI-118 Elan, the XI-138 Excel, the XI-158 Excursion and the XI-188 Extreme. Product specifics can be found on our website at www.xikar.com.

Company Website: http://www.xikar.com

Xikar Press Contact:

Betsy Donnelly Media Relations

email: betsy@xikar.com voice: 1-913-236-7757

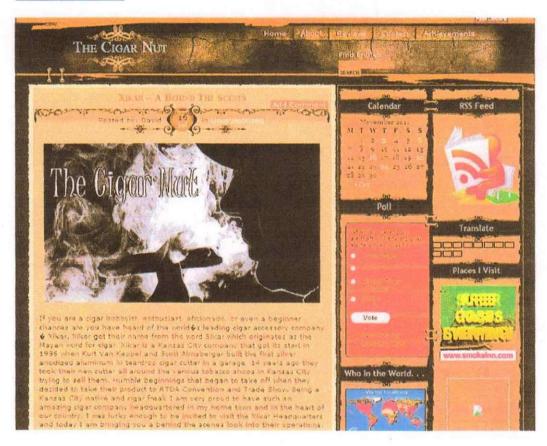
Copyright 2003 - Xikar, Inc. All rights reserved

EXHIBIT "15"

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

XIKAR: Behind the Scenes by Cigar Nut July 2010

http://web.archive.org/web/20111127131228/http://www.thecigarnut.com/xikar-a-behind-the-scenes/



This document produced by Opposer states "Xikar got their name from the word Sikar which originates as the Mayan word for cigar"

EXHIBIT "16"

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

XIKAR Interview: Cigar Press

January 2012

http://web.archive.org/web/20120129194800/http://cigarpress.com/xikar-interview-vol-v-issue-i



This document produced by Opposer states
"Paul Garmirian wrote a book on cigars and in his book he wrote that the original Spanish spelling for the Mayan cigar was sikar"

EXHIBIT "17"

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

First things first. The name Xikar is a play on sikar, the Mayan word for "smoking." Kurt Van Keppel, president and cofounder of Xikar, once read that the word "cigar" came from sikar via the Spanish word cigaro, and he simply switched out the s with an x to add a bit of style. Initially, the first syllable rhymed with "see" (as in ceegar). But customers changed that syllable to rhyme with "sky," and the name has been pronounced that way ever since. As Van Keppel and his partner Scott Almsberger insist, the customer is always right.

The pair presides over what is now one of the leading makers of cigar cutters and lighters in the world, dominating the categories in the important midprice segment. Xikar's staff of 22 full- and part-time employees sells and ships thousands of items each month. The company has grown, on average, 35 percent annually for more than a decade, although, with the economy in the doldrums, Van Keppel expects "only" 20 percent in growth this year.

Xikar's revenue breakdown is currently 30 percent cutters, 30 percent lighters, 30 percent humidification, and 10 percent travel boxes, humidors, and other accessories, and a growing number of cigars. About 70 percent of the business is domestic and the rest is international and duty-free shops.

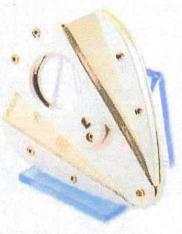
The unique Xikar cutter that started it all is a mash-up of the traditional guillotine cutter and cigar scissors. Shaped like a teardrop, the mechanism hinges at the base and is opened by releasing a catch button just below the twin blades. A cigar is fitted into the opening as with a guillotine cutter, but the incision is made with a scissor action and, if done correctly, the clippings fall into an free hand rather than to the floor. Jonathan Drew of Drew Estate, maker of Acid and Liga Privada, met Van Keppel and Almsberger a little more than 10 years ago upon the release of the first Xikar line of cutters. He found the cutter to be interesting to look at and the function, he says, was "impeccable."

Ever since the inception of the company, Xikar has always made the time to address and improve any issue that might keep its products from being the best they can be.

"From that day forward, I used the Xikar cutter myself for all of my events, and anytime that I was clipping cigars," attests Drew, adding that he sees Xikar running parallel with his own modern approach to marketing. The two companies have completed several projects together, including a combination package offering Drew Estate cigars and a Xikar cutter.

In an effort to expand to all areas of cigar accessories, Xikar has displayed the same enthusiasm and passion for perfection that fueled the creation of its distinctive cutter to its lighter and humidification businesses. The company even launched its own cigar line—the HC Series (once called Defiance), not necessarily to compete with the major manufacturers, but rather to have a complete offering to support promotions. "Our main goal is to be considered the expert cigar accessory company—the expert at cutting, lighting, humidifying, storing, and transporting cigars. That is the brand goal of Xikar. That's what we're striving to achieve," affirms Van Keppel.





Utility and design patents—the former for the functionality and the latter for the teardrop shape—are necessities for Xikar, as success will always attract copycats.

EXHIBIT "18"

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

Just got off the phone w/ Kurt at Xikar [Archive] - CigarFamily.com - Official Site of the Arturo Fuente and J.C. Newman Cigar Family

brentp

July 9, 2001, 04:38 PM

Sigh-Car.

waliguy

July 9, 2001, 05:48 PM

From Kurt at Xikar: Actually, proper pronunciation is like she-car. Spanish origin. Emphasis on second syllable.

Pay attention Brent!!!!

Slow Smoke

July 9, 2001, 05:52 PM

elacfs: If you were in the market for a class cigar cutter, would you buy the Xi3 MIM tech cutter now or wait (and you could only buy one or the other)?

thanks

brentp

July 9, 2001, 06:31 PM

He's the one that told me Sigh-car. Oh well, I guess the discussion is good promo for him.

XIKAR

July 29, 2001, 04:34 PM

Re: "xikar" pronunciation!

Hey all,

the word xikar is thought to be one of two spellings (the othe being sikar) of the original Spanish translation of the Mayan word for their smokes. So, a proper Spanish pronunciation might be sheCAR, heCAR or seCAR. However, SO MANY people pronounce it ZIcar, that we now do too.

Some people say, eX-icar, but I can't bring myself to do it. Sorry Doc!

New xi3: POLISHED Stainless body / REDWOOD handles. It's beautiful. I beleive we'll also do series of other woods: birdseye maple, teak, cocobolo, etc.

I sent Eric a picture, which I welcome him to share with interested people. You all are the first to see it (aside from my reps).

Thanks for the enthusiasm, back to painting the kids' room!

Kurt

Fia

July 29, 2001, 06:17 PM

Wow...cool. Cant wait to see one.

Chin

July 29, 2001, 08:34 PM

As usual the innovator in cutters!

Thanks Kevin

Chin

rollout

July 29, 2001, 08:48 PM

OH GREAT! Another cutter I've gotta get!

elacfs

July 30, 2001, 01:44 AM

Just to let all of you know, yes, I spoke to Kurt about this.

HOWEVER - Kurt - I did not receive the picture. If you shoot it to me again, I will be more than happy to share it with everyone. Since you said it's OK . . . here's the scoop.

As I said, Kurt is making some design changes to the Xi3 MIM cutter. Just some minor details that Kurt wants to work out as he is a perfectionist in his work and product.

EXHIBIT "19" (2 pages)

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

The Modern Maya

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our Highlands Tour

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 - Mayan Timeline
- The Modern Maya:
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The Modern Maya

Much has been made of the downfall of the ancient Mayan. What caused one of the New World's largest pre-Columbian civilizations to collapse so suddenly and completely may never be fully understand, but what became of the Maya as a people is no mystery.



They live - indeed thrive in southern Mexico and

Guatemala. No indigenous culture in North America is near as large; none have maintained their way of life and none have kept their languages alive as have the Maya - and the essence, arguably the very existence, of a culture is preserved in its language.

Yucatec speaking girl making a hammock in Yucatan, Mexico.

There are an estimated six million native Mayans speaking one form of Mayan or another. In Guatemala there 21 unique Mayan Languages and another 8 in Mexico.

Ixcil woman from Chajul, Guatemala.

Men sow and harvest Mayan com by hand in small plots as they have for millennium. Women continue to wear

their colorful Mayan clothing in a style distinct to her village.

Some are spoken by very few people in isolated corners of the area. In Santiago Atitlan in Guatemala and villages at the bases of the three volcanos that make up Lake Atitlan's southern shore some 90,000 people speak Tz'utujil. 99% of the Tz'utujil Mayans speak it as a first language - many speak nothing but.

Tz'utujil woman from Santiago Atitlan, Guatemala.

As English speakers, living in an age of instant, world wide communication (most of which is in English); it is difficult to imagine just how profoundly different their world is from ours!

Most Mayans continue to live lives much as they have since long before the arrival of the Spanish. Only now are they beginning to incorporate the modern accourrements - both the good and the bad - into their daily lives that most of us take for granted. Twenty years ago it was next to impossible for anyone to get a phone. Now with \$20 you can pick up a cell phone at the corner store. That said, some tactful eavesdropping will soon show most calls are made in Mayan.



Learn more about Mayan languages on Wikipedia.



Tropical Travel Association

The Modern Maya

Visit all of our Tropical Travel Association websites:

Centro Commercio San Rafael #17 • Calle Santander, Panajachel, Solola, Guatemala C.A.

US phone: (206) 414 5900 • Guatemalan phone: ++(502) 7762-6169 • gotoguatemala@gmail.com

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Language Use - U.S. Census Bureau EXHIBIT "20" (7 pages)

Language Use

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

Language use, English-speaking ability, and linguistic isolation data are currently collected in the American Community Survey. In the past, various questions on language use acked in the consuses from 1890 to 1970. The current language use questions, in use since 1980, gather how many people speak a language other than English at Latest Releases are spoken, and how well English is spoken.

2011 Mapper

Mapper Tool

Language Use in the United States: 2011 (ACS)

- Report » [PDF 1.9M]
- Appendix Tables »
- Press Release/Product Announcement »

Native North American Languages Spoken at Home in the United States and Puerto Rico: 2006-2010 (ACS)

- Report » [PDF 4.57M]
- Supplementary Table » [XLS 40k]

Language Use in the United States: 2007 (ACS)

- Report » [PDF 1.9M]
- Appendix Tables »
- Press Release/Product Announcement »

Detailed Language Spoken at Home and Ability to Speak English for the Population 5 Years and Older by States: 2006-2008 (ACS)

- Detailed Tables » [XLS 850k]
 - d -
- User note about this data product »
 Press Release/Product Announcement »

Source: U.S. Census Bureau | Language Use | Last Revised: February 11, 2014

Table 1. Detailed Languages Spoken at Home and Ability to Speak English for the Population 5 Years and Over for the United States: Release Date: April, 2010

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			Spoke English	
	Number of	Margin of	less than	Margin
	speakers	Error ¹	"Very Well"	Erre
Bihari	151	144	115	1
Rajasthani	464	286	103	
Oriya	4,790	845	1,013	4
Assamese	1,215	449	56	
Kashmiri	833	368	202	1
Nepali	34,139	2,990	14,857	2,0
Sindhi	6,907	1,034	1,398	4
Pakistan n.e.c. ²	13,092	2,184	5,560	1,3
Sinhalese	22,278	2,330	6,904	1,2
Romany	2,260	775	345	2
Other Indo-European languages	417,706	10,116	157.533	5,8
Jamaican Creole	19,872	3,141	5,870	2,3
Krio	6,900	1,358	1,839	- (
Hawaiian Pidgin	108	101	(B)	,
Pidgin	2,527	691	390	2
Gullah	352	361	18	4
Saramacca	112	112	46	
			100 000	
Catalonian	1,917	505	292	
Romanian	146,840	6,050	58,351	3,
Rhaeto-romanic	39	64	(B)	
Welsh	2,452	517	262	
Irish Gaelic	22,279	1,670	3,455	(
Scottic Gaelic	1,445	353	31	
Albanian	125,220	6,363	57,358	3,6
Lithuanian	42,306	2,545	14,331	1,4
Lettish	16,149	1,622	3,794	6
Pashto	15,788	2,400	5,849	1.0
Kurdish	12,982	2,291	5,564	1,0
Balochi	268	376	18	.,,
Tadzhik	150	134	65	
IAN AND PACIFIC ISLAND LANGUAGES	8,267,977	30,947	4,041,963	24,2
Chinese	2,455,583	20,609	1,370,874	12,5
Chinese	1,554,505	16,654	848,358	11,3
Hakka	1,086	386	537	
Kan, Hsiang	291	342	(B)	
Cantonese	437,301	10,320	273,042	7,0
Mandarin	381,121	10,132	199,507	6,4
Fuchow	2,671	730	2,282	0,
Formosan	76,131	3,306	45,426	2,
Wu	2,477	557	1,722	2,
Japanese	457,033	7,972	211,017	5,
Korean	1,048,173			
		13,449	610,340	8,
Mon-Khmer, Cambodian	182,387	6,650	98,764	4,
Hmong	185,401	5,616	88,556	3,
Thai	139,845	4,572	72,998	3,
Laotian	147,865	6,238	74,772	3,4
Vietnamese	1,204,454	17,809	731,555	12,
Other Asian languages	644,363	11,834	192,046	5,9
Kazakh	1,006	513	404	2
Kirghiz	131	135	53	
Karachay	698	331	248	
Uighur	3,190	911	2,069	7
Azerabaijani	1,282	458	492	2
Turkish	107,405	5,588	44,045	3,
Turkmen	221	261	14	
Mongolian	8,430	1,528	5,164	1,0
Tungus	326	271	198	2
Dravidian	2,146	708	274	
Gondi	76	64	(B)	
Telugu	171,495	5,658	35,703	2,0
Kannada	35,902	2,307	5,229	9
Kannada				-
Malayalam	112,378	4,849	35.254	2,3
		4,849 5,047	35,254 22,220	2,3

		Manaia	Spoke English	
	Number of	Margin of	less than	Margin
	speakers	Error ¹	"Very Well"	Erro
Tibetan	9,764	1,679	6,096	1,36
Burmese	35,281	3,910	22,295	3,12
Karen	3,924	1,182	3,596	1,13
Kachin	178	154	109	1:
Miao-yao, Mien	17,421	1,974	7,996	1,1
Paleo-siberian	44	32	(B)	.,,
Tagalog	1,444,324	16,857	455,975	9,5
Other Pacific Island languages	358,549	9,464	135,066	4,8
Indonesian	60,657	3,805	28,111	2,1
Achinese	32	53	(B)	
Balinese	272	159	108	
Cham	891	479	376	2
Javanese	441	218	268	1
Malagasy	935	404	243	1
				8
Malay	12,440	1,566	4,191	
Bisayan	23,644	2,185	8,981	1,4
Sebuano	10,027	1,190	3,321	6
Pangasinan	2,144	648	1,088	4
llocano	76,896	4,252	40,764	2,8
Bikol	812	347	210	1
Pampangan	5,432	1,226	1,884	
Micronesian	5,514	1,397	3,035	5
Carolinian	187	236	14	
Chamorro	17,985	1,664	2,856	
Gilbertese	173	124	102	
Kusaiean	1,056	564	526	3
Marshallese	10,739	1,930	5,672	1,3
Mokilese	448	282	205	1,1
Mortlockese	40	63	40	,
Palau	10.7			
	4,153	1,175	1,491	5
Ponapean	2,347	720	981	3
Trukese	5,434	1,465	2,728	8
Ulithean	39	71	39	
Woleai-ulithi	51	62	(B)	
Yapese	795	392	282	1
Melanesian	973	369	464	3
Polynesian	723	468	163	7
Samoan	57,368	3,813	14,396	1,3
Tongan	26,322	2,865	8,411	1,2
Niuean	17	28	(B)	
Tokelauan	290	275	193	2
Fijian	3,701	987	1,226	4
Marquesan	605	500	392	4
Rarotongan	124	137	(B)	
Maori	659	278	115	
Nukuoro	141	154	(B)	
Hawaiian	24,042	2,094	2,190	4
L OTHER LANGUAGES	2,276,977	29,341	683,816	12,1
Navajo	170,822	4,710	39,724	2,5
Other Native North American languages	203,127	4,352	32,140	1,8
Aleut	1,236	374	235	1,0
Pacific Gulf Yupik	8	. 13	(B)	,
Eskimo	2,168	391	552	1
Inupik	5,580	616	1,453	2
St Lawrence Island Yupik	993	256	392	1
Yupik	18,626	927	6,896	6
Algonquian	288	146	57	
Arapaho	1,087	366	13	
Atsina	45			
Blackfoot		35	(B)	
	1,970	577 567	217 77	1
Chevenne		to to 7	771	
Cree	2,399	10000		
Cheyenne Cree Delaware	951 146	392 123	83 37	

	Number of	Margin of	Spoke English less than	Margin
	speakers	Error ¹	"Very Well"	Erro
Kickapoo	1,141	293	476	16
Menomini	946	381	375	24
French Cree	75	71	53	6
Miami	168	275	85	13
Micmac	230	159	25	2
Ojibwa	6,986	867	788	27
Ottawa	312	174	34	4
Passamaquoddy	982	254	60	4
Penobscot	144	98	8	1
Abnaki	86	89	(B)	
Potawatomi	824	271	82	6
Shawnee	321	203	20	:
Yurok	491	387	8	1
Kutenai	200	124	65	7
Makah	176	96	53	5
Kwakiutl	85	62	21	3
Nootka	10	18	(B)	
Clallam	146	143	2	
Coeur D'alene	174	126	(B)	
Columbia	17	27	(B)	4
Cowlitz	110	179	91	14
Salish	1,233	362	282	17
Okanogan	284 207	215	31	4
Puget Sound Salish Quinault		119		10
Haida	128 118	202	(B) 23	:
		72		14
Athapascan	1,627	351	318	14
Ahtena Ingalit	18 127	27 164	(B)	
	58	53	(B)	
Koyukon Kuchin	1,217	422	302	
Tanaina				18
Chasta Costa	11 84	24	(B)	
Hupa	174	101 175	5	
Apache	14,012	1,527	(B) 495	18
Kiowa	1,274	466	122	10
Tlingit	1,026	277	84	
Mountain Maidu	319	176	22	
Northwest Maidu	32	53	32	
Sierra Miwok	216	261	(B)	,
Nomlaki	38	49	(B)	
Wintun	24	26	(B)	
Foothill North Yokuts	407	204	111	1
Tachi	45	74	26	
Santiam	50	81	(B)	
Siuslaw	6	9	(B)	
Klamath	95	73	26	
Nez Perce	942	329	114	8
Sahaptian	1,654	589	102	(
Upper Chinook	58	54	6	
Tsimshian	68	66	(B)	
Achumawi	68	61	(B)	
Atsugewi	15	26	(B)	
Karok	700	373	38	
Pomo	648	318	96	
Washo	227	152	22	
Cocomaricopa Mohave	44	49	10	
	330	193	21	
Yuma	172	97	55	
Diegueno Delta River Yuman	228	138	139	1:
Delta River Yuman Havasupai	483	191	110	9
Walapai	90	101	47	
Yavapai	458	197	22	1
Chumash	139 39	90	(B) 39	(

	Number of	Margin of	Spoke English less than	Margin
	speakers	Error ¹	"Very Well"	Err
Tonkawa	29	36	(B)	
Yuchi	4	10	(B)	
Crow	3,962	523	261	2
Hidatsa	806	341	36	
Mandan	104	96	40	
Dakota	18,804	1,363	1,855	4
Chiwere	60	52	(B)	2.5
Winnebago	1,340	357	84	
Kansa	7	10	(B)	
Omaha	457	192	9	
Osage	260	153	53	
Ponca	131	96	9	
Alabama	165	88	33	
Choctaw	10,368	1,180	2,430	5
Mikasuki	188	131	43	
Koasati	59	53	4	
Muskogee	5,072	708	995	2
Chetemacha	89	64	19	
Keres	13,073	1,181	810	2
Iroquois	76	71	(B)	
Mohawk	1,423	494	166	
Oneida	527	335	309	
Onondaga	239	180	7	
Cayuga	6	12	(B)	
Seneca	1,353	446	152	
Tuscarora	179	152	18	
Cherokee	12,320	1,264	2,012	
Arikara	103	83	(B)	
Caddo	51	64	12	
Pawnee	122	111	20	
Wichita	242	175	39	
Comanche	963	341	102	
Mono	349	362	(B)	
Paiute	1,638	568	193	
Northern Paiute	12	21	(B)	
Chemehuevi	15	27	(B)	
Ute	1,625	467	85	
Shoshoni	2,512	435	182	
Hopi	6,776	1,473	1,274	;
Cahuilla	139	148	(B)	
Cupeno	11	20	(B)	
Serrano	327	203	14	
Pima	8,190	10	(B)	
Yaqui	425	1,297	1,204	•
Tiwa	2,269	604	73	
Tewa	5,123	864	707	:
Towa	2,192	578	606	
Zuni	9,432	1,996	1,341	
Chinook Jargon	644	736	114	
American Indian	8,888	1,076	1,487	
Jicarilla	455	155	66	
Chiricahua	457	313	(B)	
Spokane	20	25	8	
lungarian	94,125	3,675	27,473	1,8
Arabic	760,505	15,845	263,704	8,8
lebrew	216,615	7,104	40,291	2,7
African languages	710,214	15,252	234,509	6,8
Amharic	146,337	6,535	64,140	3,
Berber	1,475	550	455	2
Chadic	5,091	1,254	1,533	6
Cushite	90,434	5,808	50,577	3,8
Sudanic	8,966	1,835	5,728	1,3
Nilotic .	4,964	1,399	1,577	5
Nilo-hamitic	525	357	223	

	Number of speakers	Margin of Error ¹	Spoke English less than "Very Well"	Margin o
Nubian	129	124	34	56
Saharan	19	30	(B)	-
Khoisan	19	32	(B)	-
Swahili	72,404	4,763	15,897	1,793
Bantu	42,098	3,028	11,507	1,977
Mande	27,657	3,314	11,719	1,747
Fulani	22,469	2,407	10,544	1,569
Gur	849	494	225	242
Kru, Ibo, Yoruba	267,174	9,400	54,983	3,218
Efik	5,497	1,091	613	239
Mbum	340	394	127	149
African	13,767	1,970	4,627	1,076
Other and unspecified languages	121,569	6,870	45,975	3,512
Finnish	25,806	1,589	4,782	618
Estonian	5,938	734	1,484	348
Lapp	23	31	5	8
Other Uralic languages	31	51	31	5
Caucasian	6,870	1,607	3,294	897
Basque	1,649	473	527	216
Syriac	61,272	5,133	25.099	2,476
Aztecan	1,327	485	1,035	389
Sonoran	63	62	(B)	-
Misumalpan	127	201	127	201
Mayan languages	6,832	1,277	5,257	1,084
Tarascan	470	395	414	38
Mapuche	214	289	36	60
Oto - Manguen	2,596	947	2,147	878
Quechua	935	420	437	24
Aymara	63	76	20	32
Arawakian	1,960	641	614	33
Chibchan	48	58	24	4
Tupi-guarani	456	306	248	163
Uncodable Entries	4,889	621	394	153

¹ Data are based on a sample and are subject to sampling variability. The degree of uncertainty for an estimate arising from sampling variability is represented through the use of a margin of error. The value shown here is the 90 percent margin of error. The margin of error can be interpreted roughly as providing a 90 percent probability that the interval defined by the estimate minus the margin of error and the estimate plus the margin of error (the lower and upper confidence bounds) contains the true value. In addition to sampling variability, the ACS estimates are subject to nonsampling error (for a discussion of nonsampling variability, see Accuracy of the Data). The effect of nonsampling error is not represented in these tables.

An '(B)' entry in the estimate column indicates that either no sample observations or too few sample observations were available to compute an An'(X)' entry in any column indicates that the question does not apply.

An'--' entry in the margin of error column indicates that either no sample observations or too few sample observations were available to compute a standard error and thus the margin of error. A statistical test is not appropriate.

Source: U.S. Census Bureau, 2006-2008 American Community Survey

N.E.C. stands for not elsewhere classified. These are languages where respondents indicated they spoke either INDIAN or PAKISTAN. For Indian, it cannot be determined if the respondent spoke a native American language or spoke a language from India. For Pakistan, respondents wrote in Pakistan but it cannot be determined which one of the languages spoken in Pakistan is actually being spoken. To distinguish these languages, n.e.c. is used to indicated they are not classified in any other language code.

EXHIBIT "21" (3 pages)

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

Language Use in the United States: 2011

American Community Survey Reports

By Camille Ryan Issued August 2013

INTRODUCTION

English is the language spoken by most people in the United States. The official language of many states is English¹ and it is the language used in nearly all governmental functions. Despite this predominance, many people in the United States speak languages other than English, and there has long been an interest in these groups and in how well they are able to participate in civic life and interact with the English-speaking majority. Beginning in 1890, the U.S. Census Bureau started inquiring about the languages that people spoke and, with some interruptions in the middle of the twentieth century, similar questions continue to this day.

The primary purpose of the current questions on language use is to measure the portion of the U.S. population that may need help in understanding English. These data are used in a wide variety of legislative, policy, and research applications as well as for legal, financial, and marketing decisions. People who speak a particular language other than English and cannot speak English "very well" can be helped with translation services, education, or assistance in accessing government services. The federal government uses data on language use and English-speaking ability to determine which local areas must provide language-assistance services under the Voting Rights Act. These data are also used to allocate educational funds to states to help their schools teach students with lower levels of English proficiency. In 2000,

Figure 1. Reproduction of the Questions on Language From the 2011 American **Community Survey** Does this person speak a language other than **English at home?** Ves. No → SKIP to question 15a b. What is this language? For example: Korean, Italian, Spanish, Vietnamese c. How well does this person speak English? Very well Well . Not well Not at all Source: U.S. Census Bureau, 2011 American Community Survey.

President Clinton signed an executive order requiring federal agencies to identify the need for services to those with limited English proficiency (LEP) and to implement a system to provide meaningful access to language-assistance services. Agencies rely on these data to determine how and where to provide language-assistance services.² Many other institutions, organizations, local governments, and private enterprises make use of these data in similar ways.



¹ Schildkraut, Deborah, 2001, "Official-English and the States: Influences on Declaring English the Official Language in the United States," *Political Research Quarterly*, Vol. 54, No. 2: pp. 445–457.

² See <www.lep.gov>.

The Census Bureau collected language data in the 1980, 1990, and 2000 decennial censuses using a series of three questions asked of the population 5 years old and over. The first question asked if the person spoke a language other than English at home. Those who responded "yes" to this question were then asked to report the language that they spoke. The Census Bureau coded these responses into 381 detailed language categories. The third question asked how well that person spoke English, with answer categories of "very well," "well," "not well," and "not at all." Beginning in 2010, the questions were no longer asked on the decennial census. These same three questions (Figure 1) are now asked each year on the American Community Survey (ACS), which is the primary source of language data.

This report relies primarily on data from the 2011 ACS. Language and English-speaking ability questions that were historically collected once every 10 years in the decennial census are now captured annually in the ACS. The ACS collects information from a large annual sample of approximately 3 million housing unit addresses and therefore provides more reliable statistics. The ACS is administered to a sample of the entire resident population, including those living in group quarters, which makes most estimates from the ACS comparable with those from earlier censuses.3 Taking advantage of this fact, the report also provides a historical look at languages other than English spoken in the United States since 1980. The report also looks at characteristics of the population speaking a language other than

Four Major Language Groups

Spanish includes Spanish, Spanish Creole, and Ladino.

Other Indo-European languages include most languages of Europe and the Indic languages of India. These include the Germanic languages, such as German, Yiddish, and Dutch; the Scandinavian languages, such as Swedish and Norwegian; the Romance languages, such as French, Italian, and Portuguese; the Slavic languages, such as Russian, Polish, and Serbo-Croatian; the Indic languages, such as Hindi, Gujarati, Punjabi, and Urdu; Celtic languages; Greek; Baltic languages; and Iranian languages.

Asian and Pacific Island languages include Chinese; Korean; Japanese; Vietnamese; Hmong; Khmer; Lao; Thai; Tagalog or Pilipino; the Dravidian languages of India, such as Telugu, Tamil, and Malayalam; and other languages of Asia and the Pacific, including the Philippine, Polynesian, and Micronesian languages.

All Other languages include Uralic languages, such as Hungarian; the Semitic languages, such as Arabic and Hebrew; languages of Africa; native North American languages, including the American Indian and Alaska native languages; and indigenous languages of Central and South America.

English. The ACS also provides reliable estimates for small levels of geography, including counties, cities, and tracts, allowing exploration of the distribution of language use across states and metropolitan areas of the United States.

LANGUAGES SPOKEN

Table 1 provides some basic information from the 2011 ACS about speakers of non-English languages and their English-speaking ability. Of 291.5 million people aged 5 and over, 60.6 million people (21 percent of this population) spoke a language other than English at home. While the Census Bureau codes 381 detailed languages, data tabulations are not generally available for all of these detailed groups. Instead, the Census Bureau collapses languages into smaller sets of "language groups." The most detail used in standard data products separates out 39 languages and language

groups (Table 1). The simplest uses four major groups: Spanish, Other Indo-European languages, Asian and Pacific Island languages, and All Other languages. These four groups are explained further in the text box.

One question that sometimes arises is, "How many languages are spoken in the United States?" To answer this question, we have to decide what constitutes a unique language. To develop its list of languages, the Census Bureau consulted reference works such as Ethnologue: Languages of the World,4 which lists 6,909 languages. From these sources, the Census Bureau created a list of 381 languages, with less detail provided for languages rarely spoken in this country. Accepting this list, a second issue is that the count of languages is limited to those that people report speaking

³ A paper comparing ACS data to census data was prepared by the Census Bureau in 2008. See www.census.gov/acs/www/bownloads/library/2008/Language_Comparison_Report_2008-03.pdf.

⁴ See <www.ethnologue.com>.

the language at home. Therefore, while no definitive answer to the question is available, a tabulation from the 2006–2008 ACS listed over 300 languages spoken in the United States.⁵

Many of the languages spoken in the United States are native North American languages. The ACS provides codes for 169 distinct native North American languages, and 134 of these languages were recorded in the tabulations from 2006–2008. In 2011, the Census Bureau published a brief report on native North American languages spoken in the United States.⁶

ENGLISH-SPEAKING ABILITY

Most people who spoke a non-English language at home also reported that they spoke English "very well" (Table 4). Overall, the proportion was 58 percent who spoke "very well," with another 19 percent who spoke English "well," 15 percent who spoke "not well," and 7 percent who spoke English "not at all."

The usefulness of the self-rated English-speaking ability question was established in the 1980s, when research confirmed a strong relation between this rating and separate tests of ability to perform

tasks in English.⁷ In many of its tables, the Census Bureau makes a distinction between those who speak English only or speak English "very well" on the one hand and those who speak English less than "very well" on the other.

Even among the speakers of the top ten languages, English-speaking ability varied greatly (Figure 2). A high proportion (80 percent or more) of French and German speakers spoke English "very well." In contrast, less than 50 percent of those who spoke Korean, Chinese, or Vietnamese spoke English "very well." The proportion of those who spoke English "very well." The proportion of those who spoke English "very well" among Russian, Spanish, French Creole, Arabic, and Tagalog speakers ranged from 52 percent to 67 percent.

Among the most common non-English languages in 2011, Spanish experienced growth in the past several years. Interestingly, while the percentage of the total population 5 years and over who spoke Spanish increased from 2005 to 2011, the percentage of the total population who spoke Spanish and spoke English less than "very well" actually decreased (Figure 3). The percentage of the total population 5 years and over who spoke Spanish grew from 12.0 percent in 2005 to 12.9 percent in 2011, while the percentage who spoke Spanish and spoke English less than "very well" decreased from 5.7 percent in 2005 to 5.6 percent in 2011.

Overall, speakers of all languages other than English who spoke English less than "very well" had not changed as a percentage of the total population 5 years and over from 2007 to 2011 (8.7 percent). This percentage had increased from 8.1 percent in 2000 to 8.7 percent in 2007.

LANGUAGES SPOKEN IN THE UNITED STATES: A HISTORICAL LOOK

Data on language spoken and ability to speak English were first collected in the census of 1890 (Appendix A). The form of census questions about language has varied over the years, as well as the population covered. In 1890 and 1900, all people 10 years old and over who did not speak English were asked what language they spoke. In 1910, 1920, 1930, and 1960, foreign-born people were asked about their "mother tongue" (the language spoken in the household when the respondent was growing up). Finally, in the 1980 Census, and in data collections since that time, respondents were asked the standard set of three questions shown in Figure 1. These questions are now asked of everyone aged 5 and over in the household.8

⁵ See <www.census.gov/hhes/socdemo /language/data/other/detailed-lang-tables .xls>.

T See Department of Education, Office of Planning Budget and Evaluation, 1987, "Numbers of Limited English Proficient Children: National, State and Language-Specific Estimates" (April) mimeo, which examined the school-aged population and Kominski, Robert, 1989, "How Good is "How Well"? An Examination of the Census English-Speaking Ability Question," accessed at https://www.census.gov/hhes/socdemo/language/data/census/ASApaper1989.pdf, presented at the Annual meetings of the American Statistical Association, which examined the general population.

^{*} See Gillian Stevens, 1999, "A Century of U.S. Censuses and the Language Characteristics of Immigrants," *Demography*, Vol. 36, No. 3, pp. 387–397.

EXHIBIT "22"

D

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

ENCYCLOPÆDIA BRITANNICA

JOIN LOGIN Activate Your POPULAR TOPICS QUIZZES GALLERIES LISTS SHARE YOUR STORY Search Britannica... Maya languages Writtenby Article Free Pass The Editors of Encyclopædia Related Content Recent Edits Contributors Article Web sites Bibliography Britannica View All Contributors Maya languages, also called Mayan languages, family of Mesoamerican Indian languages spoken in southern Mexico, Guatemala, and Belize; Maya languages were also formerly spoken in western Reference Honduras and western El Salvador. Feedback The family may be subdivided into the Huastec, Yucatec, Western Maya, and Eastern Maya groups. The most important Eastern Maya languages are Quiché and Cakchiquel; but there are also Mam, 1 Teco, Aguacatec, Ixil, Uspantec, Sacapultec, Sipacapa, Pocomam, Pocomchi, and Kekchi. The largest Western Maya language is Tzeltal, spoken in Chiapas, Mexico, but other Western Maya languages include Chontal, Chol, Chorti, Tzotzil, Tojolabal, Chuj, Kanjobal, Acatec, Jacaltec, and Motozintlec. The 3 Yucatec languages, including Yucatec, Lacandón, Itzá, and Mopán, are sometimes also classed as Western Maya languages; Yucatec, the most important, is spoken in Yucatán, northern Guatemala, Tweet and Belize. The Huastec group is composed of the Huastec and Chicomuceltec languages. 3 Share Share Kings of England Nautical Exploration and Literary Favorites: Fact or Aviation: Fact or Fiction? Fiction? Citations MEMBERS GET MORE: ✓ Trusted content from Britannica Kids Renowned Experts Access to Site and EB App CTIVATE MY FREE TRIA (iOS, Windows 8) ✓ Ad-Free Experience switter quite. Do you know anything more about this topic that you'd like to share? Post a new comment Login

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Yucatec Maya language, alphabet and pronunciation EXHIBIT "23" (2 Pages)

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617

Yucatec Maya (Màaya t'àan)

Xikar v. Debra Wiseberg d/b/a Bram Warren Company

Yucatec Maya is a Mayan language spoken by about 800,000 - 1.2 million people in Mexico and Belize. It is spoken mainly in Yucatan in Mexico, and there are also speakers in parts of Campeche, Tabasco, Chiapas, and Quintana Roo states in Mexico, and in northern Belize and Guatemala.

A form of proto-Yucatecan was written with the Mayan script from about the 3rd century BC, and the Yucatec Maya speakers continued to use the script until the 16th century. Recently some Yucatecs have started learning and using the script once more.

After the Spanish conquest of Yucatan in the 16th century, a version of the Latin alphabet based on Spanish orthography of that time was developed to write Yucatec Maya. A new orthography, which is used in textbooks and offical documents, was developed by linguists of the Academia de Lenguas Mayas de Guatemala (ALMG) in 1984. A number of dictionaries in Yucatec Maya have been published, the first of which, by Juan Pio Perez, appeared in 1898.

A number of radio stations in Mexico broadcast programmes in Yucatec Maya.

Yucatec alphabet and pronunciation

Vowels

a	e	i	0	u	aa	ee	ii	00	uu
[a]	[e]	[i]	[0]	[u]	[a:]	[e:]	[i:]	[o:]	[u:]

Diphthongs

ay	ey	oy
[aj]	[ej]	[oj]

Consonants

b	ch	ch'	d	j	k	k'	1	m	n	p
[6]	[tʃ]	[tʃ']	[d]	[h]	[k]	[k']	[1]	[m]	[n]	[p]
p'	r	S	t	ť'	ts	ts'	w	X	У	,
[p']	[r]	[s]	[t]	[t']	[ts]	[ts']	[w]	[3]	[j]	[?]

Notes

- There are a number of different ways to represent Yucatec Maya with the Latin alphabet. This one comes mainly from native-languages.org
- Yucatec Maya has two tones: a high tone, sometimes represented with an acute accent (à), and a low tone, sometimes represented with a grave accent (à). Short vowels have a neutral tone, long vowels can have a high or low tone.

Sample text

Tuláakal wíinik ku siijil jáalk'ab yelel keet u tsiikul yetel Najmal Sijnalil, beytun xan na'ata'an sijnalil yetel no'oja'anil u tuukulo', k'a'abet u bisikuba bey láaktalil yetel tuláakal u baatzile'.

Translation

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

(Article 1 of the Universal Declaration of Human Rights)

Information about Yucatec Maya | Yucatec Maya phrases | Tower of Babel in Yucatec Maya | Books about Mayan writing, history and culture | Mayan language learning materials

Links

Information about Yucatec Maya http://en.wikipedia.org/wiki/Yucatec_Maya_language http://www.native-languages.org/maya_guide.htm

A Brief Introduction to Yucatec Maya

http://www.mostlymaya.com/yucatec_maya_intro_.htm

Yucatec Maya phrases

http://www.mostlymaya.com/yucatec_maya_intro_.htm http://www.youtube.com/watch?v=tum7UWov0rl

http://en.wikipedia.org/wiki/Yucatec_Maya_language http://www.yucatanliving.com/culture/mayan-language-for-beginners-2.htm

A Basic English - Yucatec Mayan Dictionary http://www.mostlymaya.com/EnglishMayan.html

Yucatán: Identidad y Cultura Maya http://www.uady.mx/sitios/mayas/

Yucatec Maya language, alphabet and pronunciation

Na'atik, Instituto de Lenguas y Culturas - courses in Spanish and Yucatec Maya in Carrillo Puerto, Quintana Roo, Mexico: http://www.naatikmexico.com

Mayan languages

Aguacateco, Huasteco, Kaqchikel, Ki'che', Mam, Q'eqchi', Tsotsil, Tzeltal, Yucatec Maya

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Exhibit "24" (4 Pages)

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

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Mayan Language Family

By Irene Thompson | Updated March 5, 2013 by Scott Coble introduction dialects structure writing difficulty comments



Introduction

The Mayan language family is a group of 69 related languages spoken by some 6 million people in Central America. These languages are thought to have originated from a common ancestral language called <u>Proto-Mayan</u> which was spoken at least 5,000 years ago by inhabitants of the <u>Mayan empire</u> whose remains can be found throughout much of Guatemala, Belize, Honduras, El Salvador and southern Mexico.

The empire flourished for many hundreds of years from 1,500 BC, but collapsed during the period 800-900 AD.

Today, the largest populations of Maya speakers can be found in the Mexican states of <u>Yucatán</u>, <u>Campeche</u>, <u>Quintana Roo</u>, <u>Tabasco</u>, and <u>Chiapas</u>, and in the Central American countries of <u>Belize</u>, <u>Guatemala</u>, and the western portions of <u>Honduras</u> and <u>El Salvador</u>.

The Mayan language family is well-documented, and its classification is well-established and accepted by Mayanists. The subgrouping of languages within the Mayan family is based on common changes they had undergone when they split off from Proto-Mayan, the ancestor of all modern Mayan languages. For example languages of the western group all changed the Proto-Mayan phoneme */r/ (a reconstructed, not actually attested sound) to [j], some languages of the eastern branch retained [r], and others changed it to [tf] or [t].

The table below, based on Ethnologue, lists the main branches, their member languages, number of speakers, and geographical distribution. In recent years, the names of some Mayan languages have been changed in order to more accurately represent their pronunciations and to remove the Spanish spelling patterns imposed on their orthographies by earlier missionaries. The alternate spellings are given in parentheses.



Pocom (5)

Poqomam (3)	239,000	Guatemala
Pogomchi' (2)	92,000	Guatemala

Quichean (20)

Cakchiquel	(Kagchikel) (10)	450,000 Guater	mala
------------	------------------	----------------	------

Quiché-Achí (K'iché) (8)	1.9 million	Guatemala

Tz'utujil (2) 83,800 Guatemala

Sakapulteko (1)

Sacapulteko 36,800 Guatemala

Sipacapeno (1)

Sipacapense 8,000 Guatemala

Uspantec (1)

Uspanteko 3,000 Guatemala

Yucatecan (5)

Mopan-Itza (2)

Itza' (Itzaj)	12	Guatemala	
Maya Mopán	8,375	Belize	

Yucatec-Lacandon (3)

Lacandon (Lakantun)	1,000	Mexico
Maya Yucatán (Maya Yukatec)	700,000	Mexico
Maya Santa Cruz	40,000	Mexico

Status

Although Spanish is the official language of all Central American countries (except for Belize, where it is English), many Mayan languages are still spoken today as first or second languages by over six million indigenous people. Although still spoken by relatively large populations, Mayan languages show signs of language shift (i.e., replacement by Spanish) and decline because the children in many communities are no longer learning the language of their parents. At the same time, Mayas are participating in a language revitalization movement which will hopefully result in preventing further decline of these languages.

Cholan (4)

Chontal, Tabasco55,000 MexicoChol (Ch'ol) (2)134,000 MexicoChorti (Ch'orti')30,000 Guatemala

Tzeltalan (8)

<u>Tzeltal</u> (2) 190,000 Mexico <u>Tzotzil</u> (6) 264,000 Mexico

Huastecan (4)

<u>Chicomuceltec</u> (Chikomuselteko) extinct Mexico <u>Huastec</u> (3) 122,000 Mexico

Kanjobalan- Chujean (8)

Chujean (3)

<u>Chuj</u> (2) 41,500 Guatemala <u>Tojolabal</u> (Tojolab'al) 36,000 Mexico

Kanjobalan (5)

Jakaltek (2)88,700GuatemalaKanjobal (Q'anjob'al)77,700GuatemalaAkateko48,500GuatemalaMocho (Mocho')168Mexico

Ouichean-Mamean (40)

Greater Mamean (11)

<u>Awakateko</u> 18,000 Guatemala <u>Ixilan (4)</u> 69,000 Guatemala

Mamean (7)

Mam (5)510,000 GuatemalaTakanec20,000 GuatemalaTektiteko1,265 Guatemala

Greater Quichean (29)

Kekchi (Q'eqchi') 400,000 Guatemala

Exhibit "25" (2 pages including cover) Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

Dictionary definition for "cigar", The American Heritage Dictionary of the English Language Fifth Edition, Page 335, Houghton, Mifflin Harcourt Publishing Company 2011

ig to onies, d sh churrigue architect.] i dough that is i, perhaps < d panish with cause of its

or channel the fenced pass one side of w e finish line o shouse. d. A en area, espe rfall or rapid convey or de iom: out of ong right out Old French in *cadere () TE.

t of shoots

rcraft; a parad ruits, spices tnā, to taste,

ter nerve; effn ality" (New) āşap, to be h

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 $(E)^2 + -D$ stive enry iall intesti -chy'm

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it, bakel t shoe, d old slippe rigin.] political taly to jo reace wa in, he w do (chou) interj. Used to express greeting or farewell. [Italian < diaciao (chou) missipo of Italian (sono vostro) schiavo, (I am your) servant ical alteration of Italian (sono vostro) schiavo, (I am your) servant can I atin sclavus, slave, servant: see stave 1 Medieval Latin sclavus, slave, servant; see SLAVE.

WORD HISTORY The Italian salutation ciae, which is now popular in pord History and outside Italy, originated in the dialects of northmany parts of the World Venice, ciau literally means "servant, slave," and laly, in the dialect of Venice, ciau literally means "servant, slave," and las used as a casual greeting, "I am your servant" Dialect. m laly. In the material of venice, ciau interally means "servant, slave," and a slooned as a casual greeting, "I am your servant." Dialectal ciau coresponds to standard Italian schiavo, "slave," and both words come from responds to standard trained scheeper, stave, and both words come from Medical Latin sclavus. Declaring yourself someone's slave might seem the standard gesture today, but expressions such as Your obedient are Your servant, madam were once compositely the servant of the standard were once compositely the servant of the the an extravagant general, madam were once commonplace in English. small of rous services and services once commonpiace in English. Singary, and a secting in southern Germany and in Austria, the Czech Rein Information of the Storage and the Czech Re-polic Storakia, Hungary, Poland, Romania, Ukraine, and other parts of public Stovenia, and other parts of the Austro-Hungarian Empire. the opposite end of the world, in Southeast and East Asia, one even If the opposite that originally meant "slave" or "your slave" but have dewholed into pronouns of the first person through their use in showing respect and humility. In Japanese, for example, the word boku is used to mean T, me," especially by boys and young men, and it comes from a Middle Chinese word meaning "slave" or "servant" and now pronounced pu in Mandarin.

Ci.bo·la (sē/ba-la) A vaguely defined historical region generally thought to be in present-day northern New Mexico. It included seven pueblos, the fabled Seven Cities of Cíbola, which were sought by the

purbles, the labeled for their supposed riches.

Ci-bo-ney (sē'bə-nā', -bō-) n., pl. Ciboney or -neys also -ney-es (na'(s) A member of an American Indian people formerly inhabiting the Greater Antilles. Of unknown origin and linguistic affiliation, the Ciboney were largely displaced by Taino settlers prior to European contact and were extinct by the end of the 16th century.

dibori-um (si-bor/e-am) n., pl. -bo-ri-a (-bor/e-a) 1. A vaulted canopy permanently placed over an altar. 2. A covered receptacle for holding the consecrated wafers of the Eucharist. [Medieval Latin ciborium ¿Latin, a drinking cup < Greek kibôrion, probably of Egyptian origin.]</p> d-ca-da (sl-kā/də, -kā/-) n., pl. -das or -dae (-dē/) Any of various Insects chiefly of the family Cicadidae, having a broad head, membranous wings, and in the male a pair of resonating organs that produce a characteristic high-pitched, droning sound. [Middle English < Latin cicada.] cicada killer n. Any of several large solitary wasps of the genus

Sphecius that prey on cicadas. ci-ca-la (sī-kā'lə) n. Archaic A cicada. [Italian < Latin cicāda.]

cic-a-trix (sīk'a-trīks', sī-kā'trīks) n., pl. cic-a-tri-ces (sīk'a-trī'-\$27, \$1-kā'trī-sēz') A scar left by the formation of new connective tissue over a healing sore or wound. [Middle English cicatrice < Latin cicātrīx, cicatric-] —cic'a-tri'cial (sīk'a-trīsh'al), ci-cat'ri-cose' (sī-kāt'rī-

cic-a-trize (sīk'p-trīz') tr. & intr.v. -trized, -triz-ing, -triz-es To heal or become healed by the formation of scar tissue. [Middle English cicatri-Cold French cicatriser < Medieval Latin cicatrizare, alteration of Late Latin cicătricări, to scar over < Latin cicătrix, cicătric-, cicatrix.] -cic'a. tri-za/tion (-tri-za/shan) n.

Cic-er-o (sisto-ro'), Marcus Tullius 106-43 BC. Roman statesman, orator, and philosopher. A major figure in the last years of the Republic, he is best known for his orations against Catiline and for his mastery of Latin prose. His later writings introduced Greek philosophy to Rome. -Cic'e-ro'ni-an adj.

cic-e-ro-ne (sĭs'ə-rō'nē, chǐch'ə-, chē'chĕ-rō'nĕ) n., pl. -nes or -ni (-nè) A guide for sightseers. [Italian < Latin Cicero, Ciceron-, Marcus Tullius Cicero.]

cich-lid (sīk'līd) n. Any of numerous tropical and subtropical chiefly freshwater fishes of the family Cichlidae, which includes the tilapias and many species that are popular as aquarium fish. [< New Latin Cichla, type genus < Greek kikhlē, a kind of fish; see ghel-1 in App. I.] —cich!-lid adj.

ci-cis-be-o (chē'chēz-bā'ō') n., pl. -be-i (-bā'ē') The male lover or companion of a married woman, especially in 18th-century Europe.

Cld (sld), the Originally Rodrigo Díaz de Vivar. 1043?-1099. Spanish soldier and national hero whose military exploits, including the capture of Valencia (1094), are recounted in several literary works, most notably the epic The Song of the Cid.

QD abbr. Criminal Investigation Department

-cide suff. 1. Killer: bactericide. 2. Act of killing: ecocide. [Middle English < Old French (< Latin -cīda, killer) and < Latin -cīdium, killing, both caedere, to strike, kill; see kaə-id- in App. I.]

cl-der (si/dər) n. 1. Unfermented juice pressed from fruit, especially Pples, used as a beverage or to make other products, such as vinegar.

An alcoholic beverage made by fermenting juice pressed from fruit, especially apples. Also called hard cider. [Middle English sidre, hard cider old Franch dish of Greek.] Old French sizre, sidre < Late Latin sizera, intoxicating drink < Greek akera, of Semitic origin; see škr in App. II.]

cider vinegar n. Vinegar made from fermented apple cider. cl-de.vant (se'da-van') adj. Former. [French: ci, here + devant,

Clen-fue-gos (syen-fwa/gos) A city of south-central Cuba on Cienfuegos Bay, a narrow-necked inlet of the Caribbean Sea. The city is a port and a trade and processing center.

cl-gar (sl-gar') n. A compact roll of tobacco leaves prepared for smoking [Spanish cigarro, possibly < Maya sikar < sik, tobacco.]

ci-gar-box cedar (si-gar/boks) n. See Spanish cedar.

cig-a-rette also cig-a-ret (sīg'a-rēt', sīg'a-rēt') n. 1. A small roll of finely cut tobacco for smoking, enclosed in a wrapper of thin paper. 2. A similar roll of another substance, such as a tobacco substitute or marijuana. [French, diminutive of cigare, cigar < Spanish cigarro; see CIGAR.]

cig-a-ril-io (sīg'a-rīl'ō) n., pl. -los A small narrow cigar. [Spanish cigarrillo, diminutive of cigarro, cigar; see CIGAR.]

ci-gar-store Indian (sī-gār'stôr') n. A wooden effigy of a Native American holding a cluster of cigars, formerly used as the emblem of

ci-gua-ter-a (se'gwa-ter/a) n. Poisoning caused by ingesting fish contaminated with ciguatoxin, characterized by gastrointestinal and neurological symptoms. [American Spanish < ciguato, one poisoned (with ciguatoxin) < cigua, sigua, snail, perhaps of Arawakan origin.]

ci-gua-tox-in (sê'gwa-tŏk'sĭn) n. A potent neurotoxin that is secreted by a dinoflagellate and can accumulate in the flesh of certain marine fish, such as grouper or snapper, causing ciguatera poisoning. CIGUA(TERA) + TOXIN.

ci-lan-tro (sĭ-lăn'trō, -län'-) n. The fresh stems and finely divided young leaves of the coriander plant, used in salads and various dishes as a flavoring and garnish. Also called Chinese parsley, coriander. [Spanish, alteration of Late Latin coliandrum < Latin coriandrum; see CORIANDER.] cil-i-a (sĭl/ē-ə) n. Plural of cilium.

cil-i-ar-y (sīl'ē-ēr'ē) adj. 1. Of, relating to, or resembling cilia. 2. Of or relating to the ciliary body and associated structures of the eye.

ciliary body n. A thickened portion of the vascular coat of the eye located between the choroid and the iris.

cil-i-ate (sīl'ē-īt, -āt') adj. Ciliated. ♦ n. Any of various protozoans of the phylum Ciliophora, characterized by numerous cilia. -cil'i-a'-

cil-i-at-ed (sīl/ē-ā'tīd) adj. Having cilia.

cil-ice (sil'is) n. 1. A coarse cloth; haircloth. 2a. A hair shirt. b. Any of various other garments or items worn as a form of corporal mortification. [French < Latin cilicium, a covering made of Cilician goat's hair <

Ci-li-cia (sĭ-lĭsh/ə) An ancient region of southeast Asia Minor along the Mediterranean Sea south of the Taurus Mountains. The area was conquered by Alexander the Great and later became part of the Roman Empire. It was the site of an independent Armenian state from 1080 to 1375. -Ci-li'cian adj. & n.

Cilician Gates A mountain pass in the Taurus Mountains of southern Turkey. The pass has served for centuries as a natural highway linking Anatolia's interior with the Mediterranean coast.

cil-i-o-late (sil'ē-ə-lāt') adj. Having minute cilia. [< New Latin ciliolum, diminutive of cilium, cilium < Latin, eyelid; see сплим.]

cil-i-um (sil/e-əm) n., pl. -i-a (-ē-ə) 1. A microscopic hairlike process extending from the surface of a cell or unicellular organism. Capable of rhythmical motion, it acts in unison with other such structures to bring about the movement of the cell or of the surrounding medium. 2. An eyelash. 3. Botany One of the hairs along the margin or edge of a structure, such as a leaf, usually forming a fringe. [Latin, eyelid; see kel-1 in App. I.]

Ci-ma-bu-e (chē'mā-boo'e), Giovanni Originally Cenni di Pepo. 1240?-1302? Italian painter trained in the Byzantine style and considered the first master of the Florentine school.

Cim-ar-ron River (sim/a-ron', -ron') A river rising in northeast New Mexico and flowing about 1,130 km (700 mi) eastward across southwest Kansas to the Arkansas River in northern Oklahoma.

ci-met-i-dine (si-mět/i-dēn', -dīn') n. A histamine receptor antago nist, C10H16N6S, that inhibits acid secretion in the stomach and is used to treat duodenal and gastric ulcers and gastroesophageal reflux disease. [Alteration of CY(ANO-) + MET(HYL) + (GUAN)IDINE.]

Cirn•rne•ri•an (sĭ-mir'ē-ən) adj. Very dark or gloomy. * n. Greek Mythology One of a mythical people described by Homer as inhabiting a land of perpetual darkness. [< Latin Cimmerii, the Cimmerians < Greek Kimmerioi.

CINC or C in C abbr. commander in chief

cinch (sinch) n. 1a. A girth for a pack or saddle. b. An encircling cord, band, or belt. 2a. Something easy to accomplish. See Synonyms at breeze¹. b. A sure thing; a certainty: Their team is a cinch to win the tournament. & v. cinched, cinch-ing, cinch-es -tr. 1a. To put a saddle girth on (a horse). b. To secure (a saddle) by means of a cinch. c. To encircle or wrap tightly: "her hair orderly, her nightgown cinched around her neck" (E. Annie Proulx). d. To tighten (an encircling cord or belt, for example). 2. Informal To make certain; secure or guarantee: cinch a -intr. To tighten an encircling band or saddle girth. Often used with up. [Spanish cincha, feminine of cincho, belt < Latin cinctus < past participle of cingere, to gird; see kenk- in App. I.]

cin-cho-na (sing-ko'na, sin-cho'-) n. 1. Any of several trees and shrubs of the genus Cinchona, native chiefly to the Andes and cultivated for bark that yields the medicinal alkaloids quinine and quinidine, which are used to treat malaria. 2. The dried bark of any of these plants. Also called Jesuit's bark, Peruvian bark. [New Latin Cinchona, genus name, reputedly after Francisca Henríquez de Ribera (1576-1639), Countess of Chinchón.] —cin-chon'ic (sĭng-kŏn'ik, sĭn-chŏn'-) adj.

cin-cho-nine (sĭng'kə-nēn', sĭn'chə-) n. An alkaloid, C19H22N2O, derived from the bark of various cinchona trees and used as an antimalarial agent. $[CINCHON(A) + -INE^2.]$

cin-cho-nism (sing'ka-niz'am, sin'cha-) n. A pathological condition resulting from an overdose of cinchona bark or its alkaloid derivatives and marked by headache, dizziness, hearing loss, and ringing in



ciabatta



cicada Magicicada sp.

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ā	pay	ou	out
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ir	pier	th	this
ŏ	pot	zh	vision
ŏ	toe	Э	about,
ô	paw		item
ôr	core		

Stress marks: / (primary); (secondary), as in dictionary (dīk'sha-nēr'ē)

Exhibit "26" (2 pages including cover) Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

The American Heritage Dictionary of the English Language Fourth Edition, Page 335, Houghton, Mifflin Harcourt Publishing Company 2006, 2000

to separate the oily globules from the caseous and serous parts, and to separate the oily globules from the caseous and serous parts, and to separate the oily globules from the caseous and serous parts. make butter. * ν. churned, churneing, churns —tr. 1a. To some butter. b. To make butter. b. To make butter. can painter make butter. W. Charleso, or stir (milk or cream) in order to make butter. b. To make by the sound or stir (milk or cream; churn butter. 2. To shake or agitate with the state of the state Heart of the or stir (milk or cream) in order butter. 2. To shake or agitate vigoror wind churning up the piles of leaves. See synonyms at agitate. 3. To n a church and sell (a client's securities) frequently, especially in order to generate 1. To make butter by operating a device in a church and sell (a client's securities) respectively operating a device that commissions. —intr. 1. To make butter by operating a device that a milk 2. To move with or produce great against tates cream or milk. 2. To move with or produce great agitation, itative early churning in the storm; so angry it made my stomach churn, phress nd codified verb: churn out To produce in an abundant and automatic mana churns out four novels a year. [Middle English chirne, from Old Farth ds church.

cyrn, cyrin.] -churn'er n. churr (chûr) n. The sharp whirring or trilling sound made by second restriction of the grasshopper and partial and insects and birds, such as the grasshopper and partridge. Insects and birds, such as the grasshopper and partridge.

tive.]
Chur-ri-gue-resque (choor'I-go-resk') adj. Of or relating to style of baroque architecture of Spain and its Latin-American col characterized by elaborate and extravagant decoration. [Spanish characterized by gueresco, after José Benito Churriguera (1665–1725), Spanish architect churero (choor'o) n., pl. -ros A thick coiled fritter of fried dough [Spanish, perhaps from dialectal xurro, dirty, Valencian.]

chute (shoot) n. 1. An inclined trough, passage, or channel through or down which things may pass. 2. A waterfall or rapid. 3. A parachae. * ν. chut•ed, chut•ing, chutes —tr. To convey or deposit by a chute -intr. To go or descend by a chute. [French, a fall, alteration (influence by chu) of Old French cheoite, from feminine past participle of cheoic in fall, from Vulgar Latin *cadēre, from Latin cadere; see kad- in Appendi I. Sense 3, short for PARACHUTE.]

Chu Teh (joo' du') See Zhu De.

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chute-the-chute (shoot/tha-shoot/) n. Variant of shoot-tha-

chutist (shoo'tist) n. One who parachutes from an aircraft; a parachutist. [Short for PARACHUTIST.]

chutoney (chut'ne) n. A pungent relish made of fruits, spices, and herbs. [Hindi cațnī, from cățnā, to taste.]

chutzopah also hutzopah (кноот/spo, hoot/-) n. Utter nerve el frontery: "has the chutzpah to claim a lock on God and morality" (New York Times). [Yiddish khutspe, from Mishnaic Hebrew huspa, from hāṣap, to be insolent. See hṣp in Appendix II.]

Chuuk (chook) or Truk (truk, trook) An island group and state of the Federated States of Micronesia in the Caroline Islands of the western Par cific Ocean. Site of a major Japanese naval base during World War II, be islands were part of the U.S. Trust Territory of the Pacific Islands from 1947 to 1978.

Chuovash (choo-vash') n., pl. Chuvash or -vashees 1. A member of a people located in the middle Volga River valley, chiefly in Chuvasha. 2. The Turkic language spoken by the Chuvash. [Russian, from Chuvash

Chuovaoshioa (choo-va/she-a) An autonomous republic of western Russia in the Volga River valley. Conquered by the Mongols in the 130 and 14th centuries, the area came under Russian rule in 1552. It became an autonomous region in 1920 and an autonomous republic in 1925, Is 1992 Chuvashia was a signatory to the agreement that created the Russian

chyle (kil) n. A milky fluid consisting of lymph and emulsified ha extracted from chyme by the lacteals during digestion and passed to be bloodstream through the thoracic duct. [French, from Late Latin child. from Greek khūlos, juice. See gheu- in Appendix 1.] -chy-la/ceous (kī-lā'shəs), chy'lous (kī'ləs) adj.

chyoloomiocron (kī'lō-mī'krŏn') n. One of the microscopic part cles of emulsified fat found in the blood and lymph and formed during the digestion of fats. [CHYL(E) + Greek mīkron, small thing, from neutr of mīkros, small.]

chyme (kim) n. The thick semifluid mass of partly digested food that humors, body fluids, from Old French, from Late Latin chymus, for Greek khūmos, juice. See gheu- in Appendix 1.] —chy/mous (kl/mal

chy•mo•pa•pa•in (ki'mō-pa-pā/īn, -pī/īn) n. A proteolote enzyme obtained from the fruit of the tropical tree Carica papaya be resembles papain and is used in the treatment of herniated interverted disks. [CHYM(E) + PAPAIN.]

chy•mo•sin (ki^p mo-sin) n. See rennin. [CHYM(E) + $-OS(E)^2$ + $-OS(E)^2$ chy•mo•tryp•sin (ki'mə-trip/sin) n. A pancreatic digesior enzyme that catalyzes the hydrolysis of certain proteins in the small testine into polypeptides and amino acids. [CHYM(E) + TRYPS] -chy'mootryp'tic (-tik) adj.

Ci abbr. curie

CI abbr. 1. certificate of insurance 2. cost and insurance .ci abbr. Côte d'Ivoire (in Internet addresses)

CIA abbr. Central Intelligence Agency

CIAA abbr. Central Intercollegiate Athletic Association

Cia no (cha/no), Conte Galeazzo 1903-1944. Italian fascist p cian. Married (1930) to the daughter of Benito Mussolini, he urged lies to join the Axis powers in World War II but later favored a separate providing the Allies Arrange in World War II but later favored a separate providing the Allies Arrange in World War II but later favored a separate providing the Allies Arrange in World War II but later favored a separate providing the Allies Arrange in World War II but later favored a separate providing the Allies Arrange in World War II but later favored a separate providing the Allies Arrange in World War II but later favored a separate providing the Allies Arrange in World War II but later favored a separate providing the Allies Arrange in World War II but later favored a separate providing the Allies Arrange in World War II but later favored a separate providing the Allies Arrange in World War II but later favored a separate providing the Allies Arrange in World War II but later favored a separate providing the Allies Arrange in World War II but later favored a separate providing the Allies Arrange in World War II but later favored a separate providing the Allies Arrange in World War II but later favored a separate providing the Allies Arrange in World War II but later favored as the World War II but later favored as t with the Allies. Among those who called for Mussolini's resignations was tried for treason and executed on Mussolini's orders.

ciao (chou) interj. Used to express greeting or farewell. [Italian from dialectal circus about 150] dialectal ciau, alteration of Italian (sono vostro) schiavo, (I am your) sont, from Medicuel Lateration of Italian (sono vostro) schiavo, (I am your) sont from Medicuel Lateration (sono vostro) schiavo, (I am your) sont from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) sent from Medicuel Lateration (sono vostro) schiavo, (I am your) vant, from Medieval Latin sclavus, slave, servant. See SLAVE.]

180d History Ciao first appears in English in 1929 in Hemingway's Ford History

More I to Arms, which is set in northeast Italy during Work. War I. It has this is where Hemingway learned the word. side that this is where Hemingway learned the word, for ciau in Vedialect means "servant, slave," and, as a casual greeting, "I am your "Ciau corresponds to standard Italian schious book." dialect means and an arms, and, as a casual greeting, "I am your "Cian corresponds to standard Italian schiavo; both words come "Videval Latin schavns, "slave." A similar devolution "Medieval Latin schwus, "slave." A similar development took place Medievar took place trying the Classical Latin word for "slave," in southern Germany, threaty, and Poland, where servus is used Hungary, and Poland, where servus is used as a casual greeting Hungary, and the opposite end of the world, in Southeast Asia, one even raid At the opposite one or "your slave" that have developed into prosors of the first person, again to indicate respect and humility.

Claredi (charede), John Anthony 1916-1986. American poet and Clarification of the clear, ironic poetry, works of literary criticism, such bos notes for the Change (1960), and a translation of Dante's Divine

County (1954-1970). Clarker (sib'ar), Colley 1671–1757. English playwright and theatri-GB-DET (Storal) The Comedies such as The Careless Husband (1704) was appointed poet laureate in 1730. He was ridiculed by the great acts of the time, including Alexander Pope and Samuel Johnson.

pho la (sé/ba-la) A vaguely defined historical region generally both to be in present-day northern New Mexico. It included seven both the fabled Seven Cities of Cibola, which were sought by the earat Spanish explorers for their supposed riches.

(1-bo-ney (se'bo-na', -bo-) n., pl. Ciboney or -neys also -ney-es A member of an American Indian people formerly inhabiting reater Antilles. Of unknown origin and linguistic affiliation, the Ciwhen a largely displaced by Taino settlers prior to European contact and were extinct by the end of the 16th century.

ci-bo-ri-um(si-bor/e-am, -bor/-) n., pl. -bo-ri-a (-bor/e-a, -bor/-) 1. A vaulted canopy permanently placed over an altar. 2. A covered rereplace for holding the consecrated wafers of the Eucharist. [Medieval Latin chorium, from Latin, a drinking cup, from Greek kiborion, proba-My of Egyptian origin.]

ci•ca•da (sī-kā/da, -kä/-) n., pl. -das or -dae (-dē/) Any of various sects of the family Cicadidae, having a broad head, membranous wings, and in the male a pair of resonating organs that produce a charscleristic high-pitched, droning sound. Also called cicula. [Middle Englah, from Latin cicada.

cicada killer n. A large wasp (Sphecius speciosus) that preys on cica-

ci-ca-la (sī-kā'lə) n. See cicada. [Italian, from Latin cicāda.]

cica trix (sik'a-triks', si-kā'triks) n., pl. cica a trioces (sik'a-trī'sēz, (kh'tri-sèz') A scar left by the formation of new connective tissue over a healing sore or wound. [Middle English cicatrice, from Latin cicatrix, -cic'a•tri'cial (sĭk'a-trĭsh'al), ci•cat'ri•cose' (sĭ-kăt'rĭ-

clc-a-trize (sik/a-triz') tr. & intr.v. -trized, -triz-ing, -triz-es To heal or become healed by the formation of scar tissue. [Middle English otatrizen, from Old French cicatriser, from Medieval Latin cicatrizare, altration of Late Latin cicătricări, to scar over, from Latin cicătrix, cicătric-, cicitrix.] —cic'a*tri*za'tion (-tri-zā'shən) n.

Ciceero (sis/o-ro') A town of northeast Illinois, an industrial and resdential suburb of Chicago. Population: 67,436.

Clcero, Marcus Tullius 106-43 B.C. Roman statesman, orator, and philosopher. A major figure in the last years of the Republic, he is best known for his orations against Catiline and for his mastery of Latin Prose. His later writings introduced Greek philosophy to Rome. - Cic'tero niean adj.

cic-e-ro-ne (sis'a-ro'ne, chich'a-, che'che-ro'ne) n., pl. -nes or -ni and Aguide for sightseers. [Italian, from Latin Cicero, Ciceron-, Marcus fullius Cicero.]

cich•lld(stk/lid) n. Any of various tropical and subtropical freshwater ishes of the family Cichlidae, many of which are popular as aquarium hah. [From New Latin Cichla, type genus, from Greek kikhlē, a kind of lad. See ghel-1 in Appendix I.]—cich/lid adj.

Cid (ad), the Originally Rodrigo Díaz de Vivar. 1043?–1099. Spanish er and national hero whose military exploits, including the capture viencia (1094), are recounted in several literary works, most notably epic The Song of the Cid.

CID abbr. Criminal Investigation Department

cide uff. 1. Killer: bactericide. 2. Act of killing: ecocide. [Middle Engtom Old French (from Latin -cīda, killer) and from Latin -cīdium, ag, both from caedere, to strike, kill. See kaa-id- in Appendix I.)

cloder (st'der) n. The juice pressed from fruits, especially apples, used a beverage or to make other products, such as vinegar. [Middle English from tom Old French, from Late Latin sizera, intoxicating drink, from thek sikera, of Semitic origin. See škr in Appendix II.]

older vinegar n. Vinegar made from fermented apple cider. (lde-vant(se'da-van') adj. Former. [French: ci, here + devant, be-

Clen-fue-gos (syen-fwa/gos) A city of south-central Cuba on Clen-trace be gos (syen-fwa/gos) A city of south-central Cuba on Clen-Sos Bay, a narrow-necked inlet of the Caribbean Sea. The city is a ort and a trade and processing center. Population: 129,665. CIF abbr. cost, insurance, and freight

(cost, insurance, and freight sar(si-gār') n. A compact roll of tobacco leaves prepared for smok-Spanish cigarro, possibly from Maya sik'ar, from sik, tobacco.] d gar-box cedar (si-gar/boks) n. See Spanish cedar.

dg.a.rette also cig.a.ret (sig/a-ret/, sig/a-ret/) n. 1. A small roll hady cut tobacco for smoking, enclosed in a wrapper of thin paper. similar roll of another substance, such as a tobacco substitute or

marijuana. [French, diminutive of ciga-

cigar flower n. A small bushy Mexico and Jamaica and widely cultiva plant for its red tubular flowers with v lit cigars.

cigeaerilelo (sīg'a-rīl'ō) n., pl. -lo cigarrillo, diminutive of cigarro, cigar. : ciogar-store Indian (sĭ-gär'stôr' Native American holding a cluster of ci of a tobacconist.

cioguaoteroa (sē'gwa-těr'a) n. Pe contaminated with ciguatoxin, characte rological symptoms. [American Span (with ciguatoxin), from cigua, sigua, sn cioquaotoxoin (sē'gwa-tŏk'sĭn) n creted by a dinoflagellate and can ac marine fish, such as grouper or snap [CIGUA(TERA) + TOXIN.]

ciolanotro (sī-lăn'tro, -län'-) n. Se alteration of Late Latin coliandrum, fre DER.

ciloioa (sīl/ē-a) n. Plural of cilium. ciloioarov (sĭl/ē-ĕr/ē) adj. 1. Of, r-Of or relating to the ciliary body and a ciliary body n. A thickened portic located between the choroid and the ir ciloioate (sīl'ē-īt, -āt') adj. Ciliated of the class Ciliata, characterized by nu cil'i•a'tion n.

ciloioatoed (sīl/ē-ā'tīd) adj. Havin; ciloice (sīl'īs) n. A coarse cloth; hairc a covering made of Cilician goat's hair Cioliocia (sĭ-lĭsh/ə) An ancient regio the Mediterranean Sea south of the Tau quered by Alexander the Great and late pire. It was the site of an independent A -Cieli/cian adj. & n.

Cilician Gates A mountain pass in ern Turkey. The pass has served for cen-Anatolia with the Mediterranean coast ciloiooolate (sĭl/ē-a-lāt') adj. Havi ciliolum, diminutive of cilium, cilium, ciloioum (sĭl'ē-əm) n., pl. -ioa (-ē-ə) extending from the surface of a cell or rhythmical motion, it acts in unison w about the movement of the cell or of eyelash. 3. Botany One of the hairs alc ture, such as a leaf, usually forming a Appendix I.]

Ciomaobuoe (chē'mā-boo'ē), Gio 1240?-1302? Italian painter trained in t the first master of the Florentine school Cimeareron (sim/a-ron', -ron') Mexico and flowing about 1,123 km (6 Kansas to the Arkansas River in northe ciometoiodine (sĭ-mět/ĭ-děn', -dīn hibits acid secretion in the stomach ar. disorders, such as peptic ulcers. [Alter. (GUAN)IDINE.]

ciernex (sī/měks') n., pl. cimeiece genus Cimex, which includes the bedby Cimomeorioan (si-mir/e-on) adj. Mythology One of a mythical people c a land of perpetual darkness. [From I from Greek Kimmerioi.]

CINC or C in C abbr. commander in cinch (sĭnch) n. 1. A girth for a pa Something easy to accomplish. See sy thing; a certainty. * v. cinched, cinch a saddle girth on. 2. To get a tight grip secure or guarantee: cinch a victory. Often used with up. [Spanish cincha, fe cinctus, from past participle of cingere, t cinch bug n. Chiefly Southern & .

cinochoona (sǐng-kō/nə, sǐn-chō/-) shrubs of the genus Cinchona, native cl for bark that yields the medicinal alkalc are used to treat malaria. 2. The dried called Jesuit's bark, Peruvian bark. [New putedly after Francisca Henriquez de Chinchón.] -cinochon'ic (sing-kon'i cin·cho·nine (sĭng/kə-nēn', sĭn/cl derived from the bark of various cinch larial agent. [CINCHON(A) + -INE².]

cinochoonism (sing/ka-niz/am, sir. tion resulting from an overdose of cintives and marked by headache, dizzines

Cinocinonaoti (sīn'sə-nāt'ē, -nāt';

it. | Middle n meaning eorl, "freeal position Germanic ch is not a urvives aldant of the High Gerecome the

opted into harles. The karal, The ine, added uages borssian.

boorish or m, churlish oil: intrac-

is agitated

Exhibit "27" (2 pages including cover) Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

America's Favorite Dictionary, The American Heritage College Dictionary Fourth Edition,
Page 260, Houghton, Mifflin Company 2004

cicala

cinerarium

and in the male a pair of resonating organs that produce a highpitched droning sound. [ME < Lat. cicāda.]
ci•ca•la (sī-kā/la) n. See cicada. [Ital. < Lat. cicāda.]
cic-a•trix (sīk/a-trīks/, sī-kā/trīks) n., pl. cic-a•tri*ces (sīk/a-

trī/sēz, sī-kā/trī-sēz/) A scar left by the formation of new connective tissue over a healing sore or wound. [ME cicatrice < Lat. cicatrix, cicatric-.] -cic'a*tri/cial (sik'a-trish/al), ci*cat/ri*cose' (sī-kāt'rī-kôs') adj.

cic·a·trize (sīk/a-trīz') tr. & intr.v. -trized, -triz·ing, -triz·es To heal or become healed by the formation of scar tissue. [ME cica-trizen < OFr. cicatriser < Med.Lat. cicatrizare < LLat. cicatricari, to scar over < l.at. cicātrāx, cicātrāc-, cicatrix. | -cic'a *tri * za/tion (-trī-zā/sbən) n.

Cic-e-ro (sis/a-ro'), Marcus Tullius 106-43 B.C. Roman statesman, orator, and philosopher best known for his orations against Catiline. - Cic'e ro'ni an adj.

cic·e·ro·ne (sīs'ə-rō'nē, chīch'ə-, chē'chē-rō'nē) n., pl. -nes or -ni (ne) A guide for sightseers. [Ital. < Lat. Cicero, Ciceron-, Marcus Tullius Cicero.]

cich-lid (sīk'līd) n. Any of various tropical and subtropical freshwater fishes of the family Cichlidae. [< NLat. Cichla, type genus < Gk. kikhle, a kind of fish.]—cich/lid adj.

Cid (sīd), the Orig. Rodrigo Diaz de Vivar. 1043?-99. Spanish national hero whose military exploits are recounted in several literary works.

CID abbr. Criminal Investigation Department

-cide suff. 1. Killer: bactericide. 2. Act of killing: ecocide. [ME < OFr. (< Lat. -cīda, killer), and < Lat. -cīdium, killing, both cnedere, to strike, kill.]

ci-der (si'dor) n. The juice pressed from fruits, esp. apples, used as a beverage or to make other products, such as vinegar. [ME sidre < OFr. < LLat. sicera, intoxicating drink < Gk. sikera, of Semitic orig.; akin to Heb. ščkār, intoxicating drink.] ci-de•vant (sē'də-vān') adj. Former. [Fr.: ci, here + devant, be-

Cien-fue-gos (syen-fwa/gos) A city of S-central Cuba on Cienfuegos Bay, an inlet of the Caribbean Sea. Pop. 129,665. CIF abbr. cost, insurance, and freight

ci · gar (sǐ-gār') n. A roll of tobacco leaves prepared for smoking.

Sp. cigarro, poss. < Maya sik'ar < sik, tobacco. ci-gar-box cedar (sī-gār/bōks) n. See Spanish cedar.

cig-a-rette also cig-a-ret (sīg'a-rēt', sīg'a-rēt') n. 1. A small roll of finely cut tobacco for smoking, enclosed in a wrapper of thin paper. 2. A similar roll of another substance, such as mari-

thin paper. 2. A similar roll of another substance, such as mari-juana. [Fr., dim. of cigare, cigar < Sp. cigaren. See CIGAR.] cig*a*ril*lo (sig*o-ril*o) n., pl. los A small narrow cigar. [Sp. ci-garrillo, dim. of cigarro, cigar. See CIGAR.] ci*gua*ter*a (se*gwo-ter*o) n. Poisoning caused by ingesting

fish contaminated with ciguatoxin. [Am.Sp. < cigualo, one poisoned (with ciguatoxin) < cigua, sigua, snail, perh. of Arawakan

ci-gua-tox-in (se'gwa-tok'sin) n. A potent neurotoxin that is secreted by dinoflagellates and can accumulate in certain marine fish. [CIGUA(TERA) + TOXIN.]

ci·lan·tro (sī-lān/trō, -lān/-) n. See coriander 1. [Sp., alteration of LLat. coliandrum < Lat. coriandrum. See CORIANDER.]

cil·i·ar·y (sīl/ē-ēr/ē) adj. 1. Of or resembling cilia. 2. Of or relating to the ciliary body and associated structures.

ciliary body n. A thickened portion of the vascular tunic of the eye located between the choroid and the iris.

cil·i·ate (sīl/e-īt, -āt') adj. Ciliated. * n. Any of various protozoans of the class Ciliata, characterized by numerous cilia. -cil/iate•ly adv. —cil'i•a'tion n. cil•i•at•ed (sīl'ē-ā'tīd) adj. Having cilia.

cil-ice (sil/is) n. A coarse cloth; haircloth. [Fr. < Lat. cilicium, a covering made of Cilician goat's hair < Cilicia.]

Ci-li-cia (sì-lish'a) An ancient region of SE Asia Minor on the Mediterranean Sea S of the Taurus Mts. —Ci+li'cian adj. & n. Cilician Gates A pass in the Taurus Mts. of S Turkey.

cil·i·o·late (sīl/ē-a-lāt') adj. Having minute cilia. [< NLat. cilio-

lum, dim. of cilium, cilium < Lat., eyelid. See CHLUM.]
cil·i·um (sìl/ē-əm) n., pl. -i·a (-ē-a) 1. A microscopic hairlike
process that extends from the surface of a cell or unicellular organism and acts in unison with other cilia to bring about the movement of the cell or of the surrounding medium. 2. An eyelash. 3. Botany One of the hairs along the edge of a structure, such as a leaf, usu. forming a fringe. [Lat., eyelid. See kel- in

Ci-ma-bu-e (chê/mã-boo/ē), Giovanni Orig. Cenni di Pepo. 1240?-1302? Italian painter considered the first master of the Florentine school

Cim-ar-ron (sim/a-ron', -ron') A river rising in NE NM and flowing c. 1,123 km (698 mi) to the Arkansas R. in N OK

ci-met-i-dine (si-met/i-den', -din') n. A drug, CnHnNeS, that inhibits acid secretion in the stomach and is used to treat gastrointestinal disorders, such as peptic ulcers. [Alteration of CY(ANO-) + MET(HYL) + (GUAN)IDINE.]

ci mex (sī/mēks') n., pl. cim i ces (sīm/ī-sēz') An insect of the genus Cimex, which includes bedbugs. [Lat. cimex.]

Cim-me-ri-an (sì-mir/e-an) adj. Very dark or gloomy. * n. Greek Mythology One of a mythical people described by Homer

as inhabiting a land of perpetual darkness, [Lan Cimmerians < Gk. Kimmerioi.]

CINC or C in C abbr. commander in chief

cinch (sīnch) u. 1. A girth for a pack or saddle, 2.1. Something easy to accomplish. 4. A sure thing easy to accomplish. Something easy to accompany cinched, cincheing, cinches — Ir. 1. To put a 2. To get a tight grip on. 3. Informal To make cone . To get a tight grip on.
-intr. To tighten a saddle girth. Often used with a fem. of cincho, belt < Lat. cinctus < p. part, of capil-cinch bug n. Chiefly Southern & Midland US Variation bug.

cin*cho*na (sīng-kō/no, sīn-chō/-) n. 1. Any of wa shrubs of the genus Cinchona, native chiefly to be cultivated for bark that yields quinine and quinde used to treat malaria. 2. The dried bark of any of NLat. Cinchona, genus name, reputedly after Francis quez de Ribera (1576-1639), Countess of Chines chon'ic (sing-kŏn'īk, sīn-chŏn'-) adj. cin-cho-nine (sīng'kə-nēn', sīn'chə-) u

in-cho-nine (sing ko-nen), and cho-j used as an antimalarial agent. [CINCHON(A) + -bat] cin-cho-nism (sīng'ka-nīz'əm, sīn'cha-) n. A pathdo dition resulting from an overdose of cinchona bark of tives and marked by headache and dizziness.

Cin·cin·na·ti (sĭn'sə-nāt'ē, -nāt'ə) Λ city of extrement

the Ohio R.; founded 1788. Pop. 331,285

Cin-cin-na-tus (sīn'sa-nāt'as, -nā'tas), Lucius Quince 438 p.c. Roman statesman who according to tradition called away from his farm to govern Rome (458 and 43)

Cin·co de Ma·yo (sēng/kō də mā/yō) n. May 5 de Mexican and Mexican-American communities in me tion of the 1862 defeat of French troops at the Battleds.

[Sp.: cinco, five + de, of + Mayo, May.]
cincoture (singk/char) n. 1. The act of encircling or enco ing, 2a. Something that encircles or surrounds, b. Abel esp. one worn with a vestment or habit. * tr.v. -tured. -tures To gird; encompass. [Lat. cinctura < cinctus, 2, 36] cingere, to gird.]

cin-der (sin/dar) n. 1a. A burned substance, such as the not reduced to ashes but is incapable of further combin A partly charred substance that can burn further burn flame. 2. cinders Ashes. 3. cinders Geology See scota allurgy See scoria 2. 5. Slag from a metal furnace. 4 has -der*ing, -ders To burn or reduce to cinders. [Alteration] enced by OFr. cendre, ashes) of ME sinder < OE shall -cin/der+y adj.

cinder block or cin der block (sin der blok') n. A mil building block made with concrete and coal cinders.

Cin·der·el·la (sīn'do-rēl'o) n. One that achieves recogn success after a period of obscurity and neglect. [After Green the fairy-tale character who escapes from drudgery.

cin-e-aste or cin-e-ast (sin/e-ast) or cin-é-aste (sin/bi 1. A film or movie enthusiast, 2. A person involved in his ing. [Fr. cinéaste < ciné, cinema, short for cinéma. Section cin-e-ma (sin/a-ma) n. 1a. A film or movie. b. A morella 2a. Films or movies considered as a group. b. The film of industry. 3. The art or technique of making films of the filmmaking. [French cinéma, short for cinématographt.xx. MATOGRAPH.] —cin'e·mat'ic (sǐn'ə-māt'ik) ali, -ci mat'i · cal · ly adv.

cin•e•ma•theque (sīn/a-ma•tēk/) n. A small move of showing classic or avant-garde films. [Fr. cinémathèque to cinema; see CINEMA + (biblio)thèque, library (< Lat. labor see BUBLIOTHECA).]

cin-e-mat-o-graph (sīn'ə-māt'ə-grāf') n. Chiefly Britis movie camera or projector. 2. A movie theater. [Fr. ass graphe: Gk. kinėma, kinėmat-, motion (< kinein, to mot.

kei-2 in App.) + -graphe, -graph.]
cin-e-ma-tog-ra-pher (sīn'a-ma-tog/ra-far) n. A mone tographer, esp. one who is in charge of shooting a more cin-e-ma-tog-ra-phy (sīn'ə-mə-tōg'rə-fē) n. The artor

nique of movie photography.—cin'e-mat'o-graphyclegral'lk) adj.—cin'e-mat'o-graphyi-cal-ly adv.
ci-né-ma vé-ri-té (sɛ'na-mā' vā'rē-tā', sīn'a-mā vār'fā') style of documentary filmmaking that stresses unbiased in Fr. cinėma-vėritė: cinėma, cinema + vėritė, truth.

cin-e-ole also cin-e-ol (sin/e-ol/) n. See eucalyptol. [Alling of NLat. cinae oleum : cinae, genitive of cina, wormseed

oleum, oil; see OLEO-.] cin-e-phile (sin/a-fil') n. A film or movie enthusiast.

phile: ciné, cinema; see CINEASTE + -phile, -phile.]
cin-e-rar-i-a¹ (sin/a-rār/ē-a) n. Plural of cinerarium.
cin-e-rar-i-a² (sin/a-rār/ē-a) n. Any of several horid (Senecio xhybridus) in the composite family, having show heads and silvery foliage. [NLat. Cinerārin, genus name Lat. cinerārius, of ashes (< the ash-colored down on its lates).

cin-e-rari-um (sin'a-rar'è-am) n., pl. -i-a (-è-a) A per keeping the ashes of a cremated body. [Lat. cinerarium < structure of ashes of a cremated body.] cinerarius, of ashes < cinis, ciner-, ashes.] —cin/er-ar'y rer'e) adi.

Selection of the select

(4-nirte-as) adj. 1. Consisting of or t

(a) It. Either of two compounds, (in insecticides. [Lat. cinis, ciner-, ashes in insecuciues. [Lat. cinis, ciner-, ashes ing/gp-lam) n., pl. -la (-la) Biology insecuciue, such as a band or ridge, on an articular cinis eichl —cin/ou-late / late cin/gu-late (-lit), cin

(in/2-bar/) n. 1. A heavy reddish merc ince principal ore of mercury. 2. Red mer incepted. 3. See vermilion 2. [ME cinabar (incepted). — cin/na+bar/incepted. Gk kinnabari.) —cin'na bar'ine (-

are add n. A white crystalline acid, CaHaC cipamon or made from balsams and us anamon or made from paisams are perfume. [CINNAM(ON) + -IC.]

And tan/a-man) n. 1a. The dried inner b Adjustees in the genus Cinnamamum, esp. tunities in the genus Comnamonium, esp.

often ground and used as a spice, b. A.

set 2. A light reddish brown.

often amount

often amount ob of Semitic orig.; akin to Heb. qinni

peon bear n. A variety of the North Ameri internations) that has a reddish-brown coat the surrow, spore-bearing cinnamon leaves harded by wider, sterile green leaves.

non stone n. Sec essonite. equal (ang'khu', sang'-) n. A five-line stans

avel in k, sang.) n. Games The number five of the other of the control of the con arque cen tist (ching'kwi-chen'tist) n. An li

an arms, of the 16th century.

on took cen-to (ching'kwi-chen'to) n. The 1 dun ast and literature. [Ital. < (mil) o sound) five hundred: cinque, five (< Lat. qui (op)) sento, hundred (< Lat. centum; see C eque foil (singk/foil/, sangk/-) n. 1. Any of ar grass Potentilla in the rose family, having at its some species bear five leaflets. 2. Arc hang five sides composed of converging ar that for glass or a panel. [ME cinkfoil : cink, Rei (transl. of OFr. quintefeuille < Lat. qui

(ik pentaphullan); see FOIL².]

Deque Ports (singk!) A group of seaports o hirlings, Romney, Hythe, Dover, and Sandw time and defensive association in the 111 00 abr. 1. chief information officer 2. Co

nizations dion (si'an) n. Variant of scion 2.

dish and shellfish, tomatoes, and white w of northwest Ital. ciuppin.]

Gipanigo (sì-păng/gō) Japan

dipher also cy pher (siffor) n. 1. The mati atoting absence of quantity; zero. 2. An A anumber, 3. One having no influence A Cryptographic system in which units starty transposed or substituted according the system of substituted acts of the system. C. A mestalled in such a system. 5. A design combined in such a system. 5. A design combined in such a system. 5. A design combined in such a system. out. To solve problems in arithmetic; ca ectet writing; encode. 2. To solve by me

one OFr. Med.Lat. cifra < Ar. sifr land of Skt. śūnyam, cipher, dot).] pher-text (si/far-tekst') n. A text in c oxd to the plain text.

the abbr. 1. circle 2. circuit 3. circulation drea (sir/ka) prep. In approximately; abs sound (prob. on the model of adve dress, circle. See CIRCLE.)

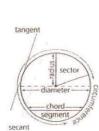
dr.ca.dl.an (sər-kā/de-ən, -kād/e-, sûr Relating to or exhibiting approx. 2 around; see CIRCA + Lat. dies, day; s

cardi an ly adv. dreadlan rhythm n. A daily rhythmic a-bour intervals, that is exhibited by man

Crecas sia (sər-kāsh/ə, -e-ə) A historic be NP coast of the Black Sea N of the Or cas sian (sor-kash'on, -kash'e-on) bt of Circassia. 2. The Caucasian lar Cir·cas/sian adj.

Greassian walnut n. A type of Engli brown curves or black streaks. Circe (sur/se) n. Greek Mythology A t

cus's men temporarily into swine bu for their journey home. -Cir/ce an



cinder block

Exhibit "28" (2 pages including cover) Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

Eric Partridge, Origins A Short Etymological Dictionary of Modern English,
Page 98, Routledge and Kegan Paul 1958

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whence, as if a dim, the ME *cronicle*, Renaissanceshaped to *chronicle*, whence 'to *chronicle*', whence *chronicle*.

2. The Gr v answering to khronos is khronizein, with cpd sunkhronizein (sun, with, together, simultaneously), whence 'to synchronize', whence synchronization; the corresp Gr adj is sunkhronos, LL trln synchronus, whence E synchronous.

3. Gr khronos has another adj: khronios, whence E chrony, now crony, orig a university contem-

porary, hence an intimate friend.

chrysalis, adopted from L, comes from Gr khrusallis, from khrusos, gold (Sem origin). Cf the element chrys(o)- and:

chrysanthemum, lit 'the golden flower'. See element anth-.

chthonian. See HOME, para 3.

chub, a squat fish: ME chubbe, o.o.o.; but, in dial, chub means 'log of wood'—therefore of Nor kubbe, Sw kubb, a log, and Nor kubben, stumpy (EDD). Hence the adj chubby.

chuck (1), to make a clucking noise, is echoic; perh influenced by *chick*, which has certainly influenced dial *chuck*, a hen. 'To *chuck*' has freq 'to

chuckle', whence the n chuckle.

chuck (2), to tap (e.g., under the chin), to toss, to throw, hence the n *chuck*: perh from *chuck*, a dial var of *chock* or block of wood, whence the various SE (esp tech) senses; the sl *chuck*, food, has been influenced by the 1st chuck.

chuckle. See the 1st CHUCK, s.f. chug, redup chug-chug: echoic.

chum. See CAMERA, para 2, s.f. Hence the n and adj chummy.

chump, orig a block of wood, hence coll (cf blockhead) a dolt or stupid fellow, and sl head:

perh chunk+lump, as EW suggests.

chunk, log, stump, hence a fair-sized piece, hence also a stumpy person or quadruped; whence, influenced by the 2nd CHUCK, the AE chunk, to throw; whence also the adj chunky, squat.

church, n hence v; cpds self-explanatory by the 2nd element, as churchman, churchwarden, churchyard; kirk; kermess or kermis; Kyrie eleison,

kyrin(e).

1. The effectual base of all these words is Gr kurios, a master, lord, king, from kuros, power, s kur-, akin to Skt śūras, powerful, bold, a hero; perh (Hofmann) the Gr word derives from a Gr *kuros (s kur-), powerful; the IE s would be *keur-, the IE r *keu- or *keua, strong, to be strong: cf Ir caur, hero, and Cor caur, W cawr, giant; perh of Medit stock, for cf Eg khu-1, power.

2. Church, ME chirche, derives from OE circe, cyrice, itself, like OHG kirihha (G Kirche) and ON kirkia, kirkja, from LGr kurikon, for Gr kuriakon, (house) of the Lord, from kurios, lord. (Walshe.)

3. The Sc kirk app owes something to ON

kirkia (-ja).

4. Kermis, var kermess, a semi-religious outdoor festival, derives from D kermis, MD kermisse, for kercmis, kercmesse, lit 'Church mass'.

5. The eccl Kyrie eleison is the LL trln of LGr

Kurie eleeson, Lord, have mercy (upon us); the 2nd element occurs in E ALMS.

6. The Chem kyrine, kyrin, represents Gr kuros, power, validity+the Chem suffix -ine or -in: a substance held to be 'a basic protein nucleus' (Webster).

churl, churlish; carl, Carl, Charles. The hist carl, peasant, serf, bondman, etc., derives from ON karl, a man, a freeman; the PN Carl derives from G Karl; both are akin to OE ceorl, man, lowest-ranked freeman, whence ME cheorl (cherl), whence churl, (now usu) a boor, with adj churlish, from OE ceorlisc. Charles, adopted from F, comes from MHG karl, a freeman. The ML form Carolus derives from G Karl; the adj is Caroline—cf Carolina, f dim from Carolus.

churn, n and v. See GRAIN, para 10.

chute. See CADENCE, para 6.

chutney, occ chutnee: Hi catnī (pron chahtnee), ? from cāṭnā, to lick.

chyle; chyme. See the 2nd FOUND, para 16. cicada, cicala.

The latter is the It (and ML-VL) derivative of L cicāda, itself echoic: cf the equally echoic Gr syn tettix.

cicatrice, cicatrix, cicatrize.

The first comes either from L cicātrīcula, a small scar, dim of cicātrīx, a scar, or by b/f from cicātrīces, pl of cicātrīx, or, most prob, from MF-F cicatrice, suggested by cicātrīc-, the o/s of cicātrīx; cicatrize derives, perh via MF-F cicatriser, from ML cicātrīzāre, var of LL cicātrīcāre (from cicatrix, 0.0.0.).

Cicero, Ciceronian, cicerone; chich; chick(-pea).

1. The L cicer, a chick-pea, has s cic- and is akin to OP keckers, pea; s keck-, and Arm sisern (? s sis-), chick-pea. (E & M.)

2. The derivative ML cicerō, chick-pea, suggests that the PN Cicerō may derive from cicer; Cicerō has adj cicerōniānus, whence Ciceronian; the It form Cicerone (cf the F Ciceron) has derivative cicerone, a guide: Cicero and ciceroni (It pl; E, cicerones) alike are talkative.

3. The obs *chich*, chick-pea, derives from MF-F *chiche*, elliptical for *pois chiche*, earlier *ciche*, from L *cicer*; the extent E term is *chick-pea*, by f/e from

the earlier ciche pease.

cider, rare var cyder, derives, via ME sidre, from MF sidre, OF cisdre (EF-F cidre), from VL*cisera, from LL sicera, an intoxicant, from LGr (Septuagint) sikera, borrowed from H shekar (whence shikkor, tipsy, whence E sl shicker).

cigar; cigarette.

The latter, adopted from F cigarette (earliest cigaret), is the dim of F cigare, earlier cigarro, adopted from Sp cigarro, itself o.o.o., but perh (Webster) from Maya sik'ar, to puff, inch of sik'eh, to smoke, from sik', tobacco.

ciliary; cilium; supercilious; seel.

1. The falconry term seel, to close (the eyes), ME silen, comes from OF-MF siller, var of OF-F ciller, from OF-F cil, eyelash, from L cilium (pl cilia), eyelid, r cil-, akin to Gr kalia, hut, barn,

CINCI shrine;

*kel-, and in envelop adj cilia 2. L

above), E super The Sci cinch, ceinte, shingles

1. Cin firm, tig cinch), I the Sp a encircle, a belt o beast).

2. Cin cinct, gi cinctūra, ceinture) 3. Cin

cingere, from in succinger has pp in enceinte likewise; place, or f of the I

4. Prae ML prae whence I environs district.

5. Succ tightly in succinct. 6. Surc

from L su cingulum, OF-MF c 7. L cin acute skin cinchon

cinct, ci cinder, si cinerate, in 1. Sinte. (OHG sin, slag, akin yields E

influenced ashes. 2. OF-F Perrault's phon from

suffix).

3. F cer
cendra, var
L cinis (ge

Exhibit "29" (2 pages including cover) Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

New Oxford American Dictionary Third Edition, Page 313, Oxford Press, Inc. 2010

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Ci p abby. a cirrus. a curie.

CIA > abbr. Central Intelligence Agency. cia batto / CHo bata/ (also ciabatta bread) ▶ n, a specification of flatish, open-textured Italian bread with a floury crust, made with olive oil. or training training training training training flows of training training section of the section

clao (Chou) > exclam, informal used as a greeting at

nering or parting:

nering used as a greeting at

nering or parting:

nering used as a greeting at

cibori-um /so'bôrêam/ > n. (pl. ciboria /-'bôrêa/)
i receptacle shaped like a shrine or a cup with an inded cover, used in the Christian Church for the servation of the Bucharist.

2 scropy over an altar in a church, standing on four pllars.
ONGIN mid 16th cent.: via medieval Latin from creek kibôrion 'seed vessel of the water lily or a run made from it.' Sense 1 is probably influenced by latin cluu' food.

Latin cibits food.

ci-co-da /so kāda, so kāda/ ► n. a large homopterous inset with long transparent wings, occurring shelfy in warm countries. The male cicada makes a loud shrill droning noise after dark by vibrating two pembranes on its abdomen. • Family Cicadidae, suborder Homoptera: many genera.
ortisin late Middle English: from Latin cicada,



cleative / siko triks/ (also cicatrice /-tris/) > n. (pl. cicatrice / siko trisēz, so kātro, sēz/) the scar of a realed wound. a scar on the bark of a tree. Botany a mārk on a stem left after a leaf or other part has become detached.

DERIVATIVES cic-a-tri-cial / sikə trisHəl/ adj. ORIGIN late Middle English (as cicatrice): from Latin cicatrix or Old French cicatrice.

cica-trize "sike triz/ > v. (with reference to a wound) heal by scar formation: [with obj.] it was upod to cicatrize certain types of wounds [[no obj.] his wound had cicatrized.

DIRIVATIVES cic-a-tri-za-tion /,sikatra-zasHan/ n. elcatriser, from cicatrice 'scar' (see cicatrix).

cicely ('sistle/ (also sweet cicely) ▶ n. (pl. cicelies) an aromatic white flowered plant of the parsley family, with fernlike leaves. • Genera Myrrhis and Congrhiza, family Umbelliferae; several species, in particular the European M. odorata, grown as a pot norb and used in herbal medicine, and the North

American O. claytoni.
ORIGIN late 16th cent.: from Latin seselis, from Greek. The spelling change was due to association with the given name Cicety.

Cice ro'/sisoro/a town in northeastern Illinois, rutt wast of Chicago; pop. 80,414 (est. 2008).

Cicero Marcus Tullius (106-43 BC), Roman taesman, orator, and writer, He established a medel for Latin prose. A supporter of Pompey 48 ainst Julius Caesar, he attacked Mark Antony in the Philippics (43 BC). For this offense, Mark Minny had him put to death.

cice-to-ne /sisorone, CHeCHo-/ > n. (pl. ciceroni guide who gives information about anountles and places of interest to sightseers. oslain early 18th cent.: from Italian, from Latin faces, Ciceron (see Ciceron), apparently alluding numerously to his cloquence and learning.

cise ro-mian /, sise ronean/ > adj. characteristic of the work and thought of Cicero. ■ (of a piece framech or writing) in an eloquent and rhythmic similar to that of Cicero.

cichild sikild | n. Zoology a perchlike freshwater is befafamily (Cichildae) that is widely immed in tropical countries. Cichilds provide a music source of food in some areas, and many are in aquariums.

The source of food in some areas, and many are in aquariums.

The source of food in some areas, and many are in aquariums.

The source of food in some areas, and many are in aquariums.

The source of food in some areas, and many are in aquariums.

The source of food in some areas, and many are in aquariums.

Cip + pier (in the UK) Criminal Investigation

Size 1 Somb, faim 1 denoting a person or substance

2 Mik Discribed Pregicide.

3 Mik Anact of killing: homicide | suicide.

5 Mik Alarench, sense 1 from Latin -cida; sense 2

1 Mik Cidium, both from caedere 'kill.'

Cid, El /sid/ (also the Cid), Count of Bivar (c.1043-99), Spanish soldier; born Rodrigo Díaz de Vivar. He captured Valencia from the Moors in 1094 and went on to rule it. He is immortalized in Poema del Cid (12th century) and in Pierre Corneille's play Le Cid (1637).

ci-der /'sīdər/ > n. (also sweet cider) an unfermented drink made by crushing fruit, typically apples. (also hard cider) an alcoholic drink made from fermented crushed fruit, typically apples.

ORIGIN Middle English: from Old French sidre, via

ecclesiastical Latin from ecclesiastical Greek sikera, from Hebrew šēkār 'strong drink.'

ci-der press > n. a press for crushing fruit, typically apples, to make cider.

ci-der vin-e-gar ▶ n. a vinegar made from fermented cider.

ci-de-vant /,sē də'vän/ > adj. [attrib.] from or in an earlier time (used to indicate that someone or something once possessed a specified characteristic but no longer does so): her ci-devant student, now

her lover.

ORIGIN early 18th cent.: French, literally 'heretofore

Cien-fue-gos /se-en'fwagos/ a port city in south central Cuba, on Cienfuegos Bay in the Caribbean Sea, the capital of Cienfuegos province; pop. 143,356 (2008)

CIF (also C.I.F.) ▶ abbr. cost, insurance, freight (as included in a price).

cig /sig/ > n. informal a cigarette. ORIGIN late 19th cent.: abbreviation.

ci-gar /si'gär/ ► n. a cylinder of tobacco rolled in tobacco leaves for smoking.

PHRASES close, but no cigar informal (of an attempt) almost, but not quite successful. [referring to a cigar

received in congratulation. - ORIGIN early 18th cent.: from French cigare, or from Spanish cigarro, probably from Mayan sik'ar 'smoking.'

cig·a·rette /,siga'ret, 'siga,ret/ (also cigaret) ▶ n. a thin cylinder of finely cut tobacco rolled in paper for smoking. a similar cylinder containing a narcotic, herbs, or a medicated substance.

- ORIGIN mid 19th cent.: from French, diminutive of cigare (see cigar).

cig-a-rette pants ▶ plural n. women's pants with straight, very narrow legs.

cig-a-rette pa-per > n. a piece of thin paper with a gummed edge in which tobacco can be rolled to make a cigarette.

cig·a·ril·lo /ˌsigəˈrilō, -ˈrē(y)ō/ ▶ n. (pl. cigarillos) a small cigar.

ORIGIN mid 19th cent.: from Spanish, diminutive of cigarro (see cigar).

ci-gua-te-ra /,sēgwə'terə/ ▶ n. poisoning by neurotoxins as a result of eating the flesh of a tropical marine fish that carries a toxic dinoflagellate. • This is caused by Gambierdiscus toxicus, phylum Dinophyta.

ORIGIN mid 19th cent.: from American Spanish, from cigua 'sea snail.'

ci-lan-tro /si'lan,tro, -'lan-/ > n. another term for CORIANDER (esp. the leaves)

ORIGIN 1920s: from Spanish, from Latin coliandrum coriander.

cil-i-a /'silēə/ plural form of cılıum.

cil-i-ar-y /'sile,ere/ > adj. 1 Biology of, relating to, or involving cilia: ciliary action.

2 Anatomy of or relating to the eyelashes or eyelids. of or relating to the ciliary body of the eye.

cil-i-ar-y bod-y ▶ n. Anatomy the part of the eye that connects the iris to the choroid. It consists of the ciliary muscle (which alters the curvature of the lens), a series of radial ciliary processes (from which the lens is suspended by ligaments), and the ciliary ring (which adjoins the choroid).

cil-i-ate /'silē āt, -ēat/ ► n. Zoology a single-celled animal of a phylum distinguished by the possession of cilia or ciliary structures. The ciliates are a large and diverse group of advanced protozoans.

• Phylum Ciliophora, kingdom Protista (formerly

class Ciliata, phylum Protozoa) ▶ adj. Zoology (of an organism, cell, or surface) bearing cilia.

Botany (of a margin) having a fringe of hairs.

DERIVATIVES cil-i-at-ed /'sileatid/ adj., cil-i-a-tion

/,sile'asHan/ n. cil-ice /'siles/ > n. a hair shirt. ■ a spiked garter or

other device worn by penitents and ascetics.
ORIGIN late 16th cent.: from French, from Latin cilicium, from Greek kilikion, from Kilikia, the Greek name for CILICIA in Asia Minor (because hair shirts were originally made of Cilician goats' hair).

Ci-li-cia /sə'lisHə/ an ancient region on the coast of southeastern Asia Minor.

- DERIVATIVES Ci-li-cian adj. & n.

Ci-li-cian Gates /sə'lisHən/ a mountain pass in the Taurus Mountains in southern Turkey. Historically, it forms part of a route that linked Anatolia with the Mediterranean coast.

cil-i-o-late /'silēəlit, -,lāt/ > adj. having cilia.

cil-i-um /'silēəm/ ▶ n. (usu. in pl. cilia /'silēə/) Biology & Anatomy a short, microscopic, hairlike vibrating structure. Cilia occur in large numbers on the surface of certain cells, either causing currents in the surrounding fluid, or, in some protozoans and other small organisms, providing propulsion.

an eyelash, or a delicate hairlike structure that resembles one.

ORIGIN early 18th cent. (in the sense 'eyelash'): from Latin.

Cim-ar-ron Riv-er /'sima,rän, -,rōn/ a river that flows for 600 miles (1,000 km) from New Mexico across Oklahoma to the Arkansas River near Tulsa. The western part of Oklahoma's panhandle was once known as the Territory of Cimarron.

ci-met-i-dine /si'metə,den/ > n. Medicine an antihistamine drug used to treat stomach acidity and peptic ulcers. Is is a sulfur-containing derivative of imidazole.

ORIGIN 1970s: from ci- (alteration of cy- in cyano-) + met(hyl) + -IDE + -INE*.

Cim·me·ri·an /səˈmi(ə)rēən, -'mer-/ ▶ adj. 1 relating to or denoting members of an ancient nomadic people who overran Asia Minor in the 7th century BC.

Greek Mythology relating to or denoting members of a mythical people who lived in perpetual mist and

darkness near the land of the dead. ▶ n. a member of the historical or mythological Cimmerian people.

ORIGIN via Latin from Greek Kimmerios + -AN.

CINC /singk/ ▶ abbr. Commander in Chief.

cinch /sinCH/ ▶ n. 1 informal an extremely easy task: the program was a cinch to use. # a sure thing; a certainty: he was a cinch to take a prize.

2 a girth for a Western saddle or pack.

• v. [with obj.] 1 secure (a garment) with a belt. • fix (a saddle) securely by means of a girth; girth up (a horse).

2 informal make certain of: his advice cinched her decision to accept the offer.

ORIGIN mid 19th cent. (sense 2 of the noun): from Spanish cincha 'girth.'

cinch bug ▶ n. another term for CHINCH.

cin-cho-na /siNG'kōnə, sin'CHōnə/ ▶ n. an evergreen South American tree or shrub of the bedstraw family, with fragrant flowers and cultivated for its bark. • Genus Cinchona, family Rubiaceae: several species. a (also cinchona bark) the dried bark of this tree, which is a source of quinine and other medicinal alkaloids.

ORIGIN mid 18th cent.: modern Latin, named after the Countess of Chinchón (died 1641), who was treated with a similar drug in South America.

cin-cho-nine /'siNGkə,nēn, 'sinCHə-/ > n. Chemistry a compound with antipyretic properties, derived from cinchona bark and used as a substitute for quinine. An alkaloid; chem. formula: C₁₉H₂₂ON₂

cin-chon-ism /'singke,nizem, 'sincHe-/ ▶ n. poisoning due to excessive ingestion of cinchona alkaloids.

Cin-cin-nat-i / sinsə nate/ an industrial city in southwestern Ohio, on the Ohio River; pop. 333,336 (est. 2008).

cinc-ture /'singkchər/ > n. 1 literary a girdle or belt.

2 Architecture a ring at either end of a column shaft.

ORIGIN late 16th cent. (in the sense 'encircling or enclosure'): from Latin cinctura, from cinct-

'encircled,' from the verb cingere.

cin-der /'sindər/ ▶ n. a small piece of partly burned coal or wood that has stopped giving off flames but still has combustible matter in it.

 DERIVATIVES cin-der-y adj.
 ORIGIN Old English sinder 'slag,' of Germanic origin; related to German Sinter. The similar but unconnected French cendre (from Latin cinis 'ashes') has influenced both the sense development and the spelling. Compare with SINTER.

cin-der block > n. a lightweight building brick made from small cinders mixed with sand and cement.

cin-der cone > n. a cone formed around a volcanic vent by fragments of lava thrown out during eruptions.

Cin-der-el-la / sinda rela/ a girl in various traditional European fairy tales. In the version by Charles Perrault she is exploited as a servant by

PRONUNCIATION KEY ə ago, up; ər over, fur; a hat; ă ate; ă car; e let; ē see; i fit; ī by; NG sing; ō go; o law, for; oi toy; oo good; oo goo; ou out; TH thin; TH then; ZH vision

Exhibit "30" (2 pages including cover) Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

Encarta World English Dictionary, Page 329, St. Martins Press Bloomsbury Publishing 1999

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2.

400

on a chute [Early 19thC. From French, "ultimately from Latin cadere "to fall."]

oot n. a parachute (informal) [Early 20thC. -chut-ist n.

cost schitteed (plural -neys) n. 1. FOOD SPICY RELISH and spicy relish made from fruit, spices, and vinegar 2. Carib Music RHYTHMIC CARIBBEAN popular Caribbean form of song with a quick anch influenced by calypso in rhythm and at subjects [Early 19thC. From Hindi catnī.]

hootspa, kh-/, hutz-pah, chutz-pa n. pan Alcolope, Barry Indee Pan, Children A. SELF-CONFIDENCE boldness coupled with self-confidence 2. RUDENESS impudent ruor lack of respect [Late 19thC. Via Yiddish from

was huspill wish choo vaash, choo vaash/ n. a language west of the Urals in central Russia, beof to the Turkic family of Altaic languages. by about two million people. [Via un from Chuvash čävas] —Chu-vash adj

one and n a milky fluid consisting of lymph and and that forms in the small intestine as digestion [15thC. Via late Latin from Greek khūlos plant Juice." | — chy-la-ceous /kī láyshəss/ chy lous /kilass/ adj.

explomitoron /kilo mf kron/ n. a microscopic parcontaining fats, cholesterol, phospholipids protein, formed in the small intestine and abserved into the blood during digestion

brine May n. a thick fluid mass of partially digested and pastric secretions passed from the stomach the small intestine [Early 17thC. Via late Latin from the stating "animal or plant juice," ultimately "tube seek which something flows," from an Indo-European that is also the ancestor of English funnel.] enymous adj.

chy-mo-pa-pa-in /kimō pə páy in, -pə pí in/ n. an forme found in papaya juice that aids the breakand is used in medical procedures and as a meat tenderizer [Late 20thC. Formed from THE FEAPAIN.

shy mo tryp-sin /kimō tripsin/ n. a digestive enzyme reduced in the pancreas -chy-mo-tryp-tic adj.

thy mo tryp sin o gen /kimo trip sinnajan/ n. the intive form of chymotrypsin that is converted into hymotrypsin by the enzyme trypsin

thy pre /sheepre/ n. perfume made from sandalwood (Late 19thC, From French, literally "Cyprus," person where the perfume was originally made.]

STADO MEASURE CUbic inch

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Gr symbol. MEASURE, PHYS curie

A schr 1: HISUR certificate of insurance 2. FREIGHT cost and insurance 3. Cayman Islands

Charles a U.S. federal bureau responsible for inenco and counterintelligence activities outside United States. In conjunction with the FBI, it is involved in domestic counterintelligence. Full om Central Intelligence Agency

CAA abbr. Central Intercollegiate Athletic As-

sa lal ta /cha bátta/ (plural -tas or -te) n. a flat white han bread made with olive oil [Late 20thC. From "slipper," from the shape of the loaf.]

crowl interi. used to say hello or goodbye (majmah) [Early 20thC, From Italian dialect, literally "(I

Trhaardee, John (1916-86) U.S. poet and critic. dition to Doems and translations he wrote sales critical works such as How Does a Poem

10 Hum 41 bawree am/ (plural -a /si bawree a/) n. Pawree am/ (plural -a /s) pawree am/ (plural the other in some Christian churches 2. Hoty or a small container with a lid, used to hold ontainer with a IId, used to Grated wafers for Holy Communion [Mid-Na nedleval Latin from Greek kibôrion, denoting the Gen seed Vessel of a species of water lily.] Counterintelligence Corps



Cicada

ci-ca-da /si káydə, -ka'adə/ (plural -das or -dae /-dee/) n. a large winged insect that lives in trees and tall grass, the male of which makes a shrill sound. Family: Cicadidae. [15thC. From Latin, of uncertain ultimate origin.]

ci-ca-da kill-er n. a large hunting wasp that feeds on adult cicadas. Latin name: Sphecius speciosus.

ci-ca-la /si ka'alə/ (plural -las or -le /-lay/) n. = cicada [Late 18thC. Via Italian or directly from Latin, variant of cicada. The irregular plural comes from Italian.]

cic-a-trix /síka triks/ (plural -tri-ces) n. 1. MED SCAR a scar (technical) 2. BUT MARK OF LEAF ATTACHMENT a scar left on a stem where a leaf used to be attached [Mid-17thC. From Latin, "scar."] -cic-a-tri-cial /sìka trish'l/ adj. -ci-cat-ri-cose /si káttri köss/ adj.

cic-a-trize /sika triz/ (-trized, -triz-ing, -triz-es) vti. to heal, or cause a wound to heal, and form a scar (technical) [15thC. From French cicatriser, from cicatrice "scar."] -cic·a·tri·za·tion /sikətri záysh'n/ n.

cic-e-ly /sissalee/ n. = sweet cicely

cic-e-ro /síssərö/ n. a size of printed character slightly larger than the pica [From its first use (1458) for an edition of the works of CICERO)

Cic·e·ro /síssərö/ town in northeastern Illinois; a southwestern suburb of Chicago. Population: 70,915 (1996)

Cic-e-ro, Marcus Tullius (106-43 B.C.) Roman philosopher, writer, and statesman. He was Rome's greatest orator during a long political career. His letters and essays are known for their rich prose style. - Cic-e-ro-ni-an /slssa ronee an/ adi.

cic-e-ro-ne /sissa ronee, chicha-/ (plural -nes or -ni /-nee/) n. somebody who guides and informs tourists [Early 18thC. From Italian, named for CICERO, because of the guide's knowledge and eloquence.]

cich-lid /síklid/ n. a tropical freshwater fish with spiny fins, popular as an aquarium fish. Family: Cichlidae. [Late 19thC. From modern Latin Cichlidae, family name, from Greek kikhlē, denoting a kind of fish.]

Cid, El /èl síd/ (1040?-99) Spanish military leader. Legend obscures the true nature of "The Lord Champion" who fought both for and against Spain's Moorish rulers, and was virtual dictator of Valencia from 1094 to 1099. Born Rodriguez Díaz de Vivar

CID. C.I.D. n. the detective branch of the U.K. police force. Full form Criminal Investigation Department

-cide suffix. 1. killer o fungicide 2. killing o tyrannicide (Via Old French from Latin -cida "killer," and from Latin -cidium "killing," both from Latin caedere "to strike, kill" (source also of English chisel, scissor, incise, and decide)] -cidal suffix.

ci-der /sidar/ n. 1. NONALCOHOLIC FRESH APPLE DRINK a nonalcoholic drink made from freshly-pressed apples 2. FERMENTED APPLE JUICE an alcoholic drink made from fermented apple juice [13thC. Via Old French sidre from, ultimately, Hebrew šěkár "alcoholic drink."]

ci-der vin-e-gar n. a light vinegar made from cider

ci-de-vant /si də va'aN/ adj., adv. used to indicate that what follows was somebody's former name, office, or title (formal) [Early 18thC. From French, literally "before this."]

c.i.f., C.I.F. abbr. 1. cost, insurance, and freight. 0 C.F.I. 2. central information file

c.i.f.c.i. abbr. cost, insurance, freight, commission, and interest (used in quotes to indicate what is included in the price)

cig /sig/ n. a cigarette (informal) [Late 19thC. Shortening.]

ci-gar /si gaar/ n. a cylindrical roll of tobacco leaves for smoking, with thin brown paper or a single tobacco leaf as an outer covering [Early 18thC. Directly or via French cigare from Spanish cigarro, probably from Mayan sik'ar "smoking."] \diamondsuit close but no cigar the answer, response, or result is not good enough (informal)

cig-a-rette /sigga rèt/ n. 1. ROLL OF SHREDDED TOBACCO a cylindrical roll of shredded tobacco leaves for smoking, with an outer covering of thin, usually white, paper 2. ROLL OF ANY LEAVES FOR SMOKING a roll of shredded leaves of any kind for smoking, e.g., marijuana leaves or leaves of herbs [Mid-19thC. From French, literally "small cigar," from cigare (see CIGAR).]

Cig-a-rette /siggə rèt/ tdmk. a trademark for a long, sleek, high-performance, high-powered motorboat

cig-a-rette hold-er n. a hollow cylindrical device for holding a smoking cigarette. Some cigarette holders include filters.

cig-a-rette light-er he lighter

cig-a-rette pa-per n. a sheet of thin paper with gum on one edge, used with loose tobacco to roll cigarettes

cig-a-ril-lo /siggə rillō/ (plural-los) n. a slender cigar about the same size as a cigarette [Mid-19thC. From Spanish cigarillo, literally "small cigar," from cigarro (see CIGAR).]

ci-gar-store In-di-an n. a wooden figure of a Native American man holding a bunch of cigars in his hands, formerly used as a sign indicating that a store sold tobacco products

cig-gy /siggee/ (plural-gies) n. a cigarette (informal)

ci-lan-tro /si laantro, si lantro/ n, the leaves of the coriander plant, used as a flavorful herb, especially in Latin American and Southwestern U.S. cooking [Early 20thC. Via Spanish from, ultimately, Latin coriandrum "coriander," source of English coriander.]

cil-i-a plural of cilium

cil-i-ar-y /síllee èrree/ adj. 1. BIOL used to describe the short threads (cilia) projecting from some cells and the beating movement they make 2. ANAT used to describe the tissue and muscle that surrounds the lens of the eye [Late 17thC. Formed from CILIUM.]

cil-i-ar-y bod-y n. the ring-shaped part at the front of eye that connects the pigmented layer (choroid) of the eyeball with the iris diaphragm. It also contains the ciliary muscle, which alters the curvature of the lens.

cil-i-ate /sillee ayt, sillee at/ n. ORGANISM PROPELLED BY THRASHING THREADS a simple microscopic organism with projecting threads that thrash to help it to move along. Phylum: Ciliophora. m adj. = ciliated [Mid-18thC, Formed from CILIUM.]

cil-i-a-ted /síllee aytad/, cil-i-ate adj. used to describe cells with projecting threads (cilia) or organisms with cells of this type —cil·i·a·tion /sillee aysh'n/ n.

cil-ice /sillis/ n. 1. TEXTILES = haircloth 2. CLOTHES HAIR-CLOTH GARMENT a garment made of haircloth [Late 16thC. Via French from, ultimately, Greek Kilikia, Cilicia (an ancient district of Anatolia, now in southern Turkey), because the cloth was originally made of Cilician goats' hair.]

cil-i-um /sillee əm/ (plural -a /ə/) n. 1. BIOL MICROSCOPIC PROJECTION ON CELL a tiny projecting thread, found with many others on a cell or microscopic organism. that beats rhythmically to aid the movement of a fluid past the cell or movement of the organism through liquid 2. EYELASH an eyelash (technical) [Early 18thC. From Latin, literally "eyelash."]

Cim-ar-ron /símma ròn/ river rising in northeastern New Mexico and flowing across Kansas and Oklahoma to the Arkansas River near Tulsa. Length: 600 mi./970 km.

cim-bal-om /simbələm, tsimb-/ n. a musical instrument similar to the hammered dulcimer. It is used especially in Hungarian folk and gypsy music. [Late 19thC. Via Hungarian from Italian cimbalo 'dulcimer."]

Cim-bri /sim bri, kímbree/ npl. a Germanic people who lived in parts of Jutland and the Rhine valley during the second century B.C. They began to spread southwards, but were routed by the Romans in 101 B.C. [From Latin]

ci-met-i-dine /sī méttə deen/ n. a drug that limits the production of acid in the stomach and is used to treat peptic ulcers. Formula: C10H10NS. [Late 20thC. Coined from CYANO- + METHYL + -IDINE.]

EXHIBIT "31" (2 Pages)

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wisberg d/b/a Bram Warren Company

MAYAN LANGUAGES: OUR DIVERSE CULTURE



It isn't Spanish.

The languages heard in Guatemalan neighborhoods of Palm Beach County are ancient Mayan. Despite what is commonly assumed, the estimated 35,000 local indigenous people from the Guatemalan highlands mostly converse in M'am, Q'anjob'al, or any one of 22 other Indian languages -- not Spanish which is the dominant language across Central America. These quiet, hardworking people are Mayas, the descendants of a once mighty civilization, who began arriving in South Florida in the early 1980s with no knowledge of Spanish or English.

Fleeing genocide, civil war and poverty, first came the Q'anjob'al Maya from San Miguel Acatán, then the Mames, Jacaltecos and others from the state of Huehuetenango. Many settled in the Lake Worth area, where they remain today, living in the shadows and clinging to their native languages. "They're not Hispanic. They are Maya," said Dr. John Linstroth, executive director of Guatemalan-Maya Center. "They are a separate population that speaks many indigenous languages."

As many as six million indigenous Maya are believed to still be speaking Mayan languages. Most live in Belize, Guatemala, Honduras, El Salvador, Mexico, and United States.

The Mayan empire lasted nearly 3,500 years, before it was eventually conquered by the Spanish, according to language scholars. Back then, the ancient language was mostly a tool for the elite, especially the kings. In fact, much of the old Mayan texts discussed the birth, ascension or death of kings, and the rituals carried out by them.

Because Mayas were spread across a large region, their language had many pronunciations, and over time, those dialects spawned new languages that are still spoken today. It's not uncommon to have people from one region of Guatemala not fully understanding the languages of another region.

Most modern Mayan languages are likely derived from a 5,000-year-old language known as Proto-Mayan. There are five branches in the Mayan language family: Cholan-Tzeltalan, Huastecan, Qʻanjobalan-Chujean, Quichean-Mamean, and Yucatecan.

Many of those languages are heard on Palm Beach County streets lined with coin laundries, Mexican eateries and Latin groceries, where Guatemalan families live in apartments and trailers and make a living working at grocery stores and farm fields.

Even though they are far from their homeland, local Guatemalans are more comfortable speaking their languages than conversing in Spanish or English. They spend much of their time among their own, talking with relatives, friends and coworkers who share their languages.

As a result, their tight-knit community and language barriers isolate them from the surrounding society. That's why Guatemalan-Mayas aren't represented in government and can't defend their positions in the growing

Featured Stories

Day in the Life of Guatemalan-Maya Center (/featured/day-lifeguatemalan-maya-center)

Deportations Destroying
Community, Hurting Children
(/featured/deportations-destroyingcommunity-hurting-children)

Mayan Languages: Our Diverse Culture (/featured/mayan-languagesour-diverse-culture)

Connecting Community Through Ancient Weaving (/featured/connecting-communitythrough-ancient-weaving) anti-immigration movement.

The inability to speak fluid English or Spanish also has made many Guatemalan-Mayas victims of crime, particularly robberies, because the attackers know they aren't likely to go to the police.

But times are slowly changing. The younger generations of Guatemalan-Mayas in Palm Beach County are learning English and Spanish and making strides to fully assimilate. They are attending public school and building friendships outside their Guatemalan-Maya circles. Some Guatemalan-Maya elders are actually urging youths not to stray too far from their Mayan roots and indigenous tongues so that their proud heritage is preserved.

Meanwhile, many adults are starting to take steps to integrate as well. While their children attend pre-kindergarten, parents are learning English and computer skills. Armed with better language skills, they are steadily venturing out of their comfort zones and finding work that doesn't involve picking vegetables, stuffing grocery bags or cutting grass.

Among the Guatemalan-Maya leaders, there is hope that their community is coming out of the shadows and finding its voice in Palm Beach County.

Writer: Leon Fooksman can be reached at <u>fooksman17@gmail.com</u> (mailto:fooksman17@gmail.com).

EXHIBIT "32" (2 Pages) A Brief History Of the Cigar -- Printout -- TIME

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617

Xikar v. Debra Wisberg d/b/a Bram Warren Company

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The Cigar

By Alex Altman

For most of us, New Year's is a day for resolutions. But for Fidel Castro, it marked the culmination of a long-awaited revolution. Fifty years ago on Jan. 1, Castro's Communist revolution swept aside the hated Batista regime. The change was bad news for the U.S.; Castro's regime (and American attempts to eliminated it) prompted the Bay of Pigs debacle, closed off a beautiful country with a <u>vibrant music culture</u>, and — possibly worst of all — triggered a 46-year-old trade embargo that has deprived Americans of Cuba's most prized export: its vaunted cigars.

Though Cuban cigars are perhaps the world's most revered, the stogie probably didn't originate on the island. Cigar smoking first took hold elsewhere in the Americas—exactly where and when remains uncertain. A ceramic pot discovered in Guatemala that dates at least as far back as the 10th century depicts a Mayan puffing on tobacco leaves bound up with string. (The Mayans may also have handed down the object's name: their term for smoking, *sikar*, likely led to the Spanish *cigarro*, from which the cigar takes its name.) When Columbus stumbled upon the Americas in 1492, he also discovered tobacco; the New World's natives smoked cylindrical bundles of twisted tobacco leaves wrapped in dried palm or corn husks.

Cuba's fertile land and favorable climate allowed all three types of tobacco leaves used in a cigar — the wrapper, filler and binder — to be harvested on the island, and sailing ships were soon distributing Cuban tobacco from Europe to Asia. Columbus had claimed Cuba for Spain, and the Spanish soon cornered the nascent industry, mandating in the 17th century that all tobacco for export be registered in Seville; they later tightened their stranglehold on the market by forbidding Cuban growers to sell the crop to anyone but them — a monopoly that persisted until 1817.

By then, cigars were exploding in popularity around the world. The U.S. consumed some 300 million cigars by the mid-19th century, and many Cuban cigar-makers migrated to nearby Florida, where Tampa became known as "Cigar City" by the early 20th century. "If I cannot smoke in heaven, then I shall not go," Mark Twain declared. Though the boom was partly lit by the cigar's affordability, they soon become a must-have accessory for debonair gentlemen — men like King Edward VII, who, upon assuming the

British throne in 1901, famously announced a break with the smoke-free policies of his mother Queen Victoria by uttering the words: "Gentlemen, you may smoke." Ulysses S. Grant's cigar habit proved his undoing, saddling him with the throat cancer that killed him. And Freud was a chimney: Patients on his couch had to endure not only running commentary about their suppressed Oedipal complexes but the acrid stench from his 20-a-day cigar habit (which ultimately killed him too).

Despite the obvious health risks, cigars remain a fixture of pop culture. An episode of *Seinfeld* centered around a box of Cubans, while the stogie's famous champions include Michael Jordan, Rush Limbaugh and Lil' Wayne. Politicians dabble too — Arnold Schwarzenegger is a noted fan — although puffing on a Cuban can leave an eggy residue on a pol's face. A year after Tom DeLay thundered that "American consumers will get their fine cigars and their cheap sugar, but at the cost of our national honor," a photo emerged of the former House majority leader sucking on a Hoyo de Monterrey. Washington was also the site of the cigar's most infamous moment: its use as a sexual prop by former President Bill Clinton during a tryst with Monica Lewinsky.

Yet Washington is where cigar-lovers looking to enjoy a smooth Cohiba or Romeo y Julieta — without skirting the law — can look for hope. President-elect Barack Obama has indicated a willingness to discuss with Raul Castro the repeal of bans on Cuban-American travel and remittances—gestures that could ultimately lead to scrapping the trade embargo. For aficionados, that would be a welcome tonic for the grim times ahead. As Evelyn Waugh said, "The most futile and disastrous day seems well spent when it is reviewed through the blue, fragrant smoke of a Havana cigar."

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EXHIBIT "33"

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wisberg d/b/a Bram Warren Company

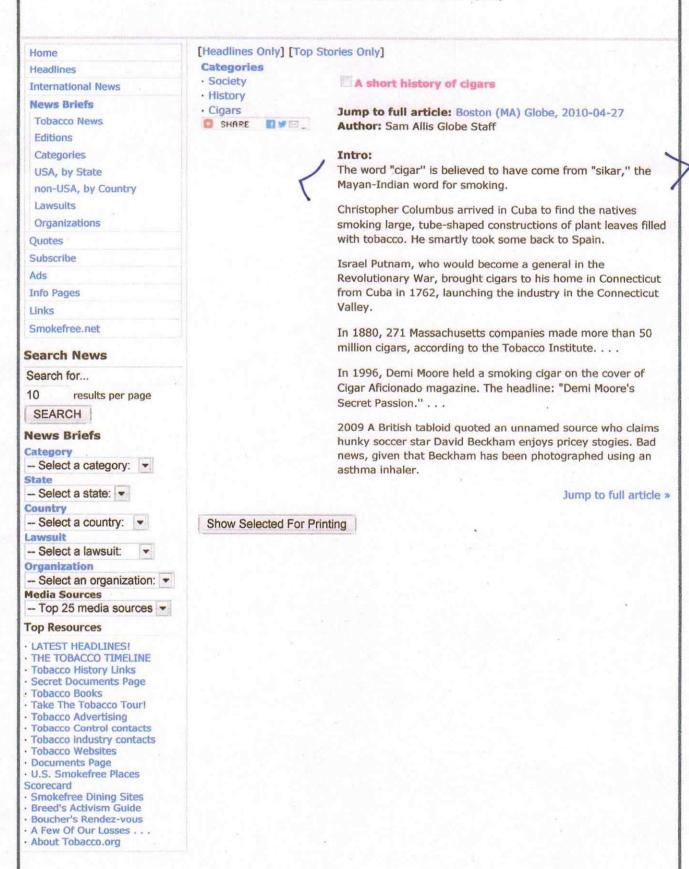


EXHIBIT "34"

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wisberg d/b/a Bram Warren Company

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Answer:

The word "cigar" originated from sikar, the Yucatec Mayan word for smoking, which became cigarro in Spanish, probably from the Mayan sikar ("to smoke rolled tobacco leaves" - from sik, "tobacco;") or from the Spanish word cigarra ("grasshopper"). However, the word itself, and variations on it, did not come into general use until 1730. New names for cigars include "Jules", "Havana", "Vitole" and "Puro".[1] An older alternate spelling is "segar",[2] not uncommon in 19th century signs and advertisements.



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First answer by Starashia123. Last edit by Kayla Gagne

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Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617

Xikar v. Debra Wisberg d/b/a Bram Warren Company

LOUNGE XIKAR V. Debra

Art & Entertainment Automobiles Beauty & Fashion Gadgets & Gizmos Health & Fitness Home & Living Parenting & Family Society Travel

This article traces some interesting information on the background of Cigar. To know about the history and origin of Cigar, read on



Lifestyle Lounge: Art & Entertainment

Looking for something?

SEARCH

History Of Cigar

+Stenger/ets

While taking puffs from a cigar, have you ever thought from where this tightly rolled bundle of dried and fermented tobacco came. For all those pondering over the issue, here is jotted some interesting information on the background of Cigar. The history of the cigar goes back to 2,000 years though its origin details are lost in the time. Some scholars believe that the term 'cigar' originated from 'sikar', which is the Mayan word for smoking. Supposedly the cigar has its origins within Central America, where the Mayans and later the Aztecs used to smoke. These people were identified to have smoked pipes of loosely rolled tobacco leaves, resembling the existing cigars.

StumbleUpon 0

When the American continent, together with West Indies, was discovered by Columbus, several accounts were written about these New World people who smoked tobacco. In fact, they also used tobacco for chewing. The return of Columbus marked the arrival of the practice of smoking to Europe, in 1492. During his stay in the New World, he had been presented some dried leaves as a token of friendship. There his men learnt how these leaves were utilized. Though Columbus himself was not especially impressed by the custom, the Spanish and other European sailors got attracted to the habit. Later the conquistadores and colonists fell for smoking.

On the second voyage of Columbus, a pastor named Ramon Pane brought tobacco seeds or plants to Europe. Eventually the frequent conquistadores introduced smoking of tobacco to Spain and Portugal. The habit was regarded as a sign of riches. It reached France, and through the French ambassador to Jean Nicot, Portugal in 1560. Several people are known for being the first to smoke in England. As far as citation reveals, tobacco was introduced to England somewhere before 1565, when Hawkins came back from his voyage. Sir Walter Raleigh is mainly credited for making the smoking habit fashionable. In the mid 16th century, around 1557, sailors were actually the first to be seen smoking cigars.

By 1580s, smoking became the style among the upper classes. In the American colonies, tobacco was smoked only in pipes even though the first tobacco plantations were established in Virginia in 1612 and Maryland in 1631. The cigar, itself, is believed not to have arrived until after 1762, when Israel Putnam who was an American general returned from Cuba. From there, he returned to Connecticut with a collection of Havana cigars, and large sum of Cuban tobacco. Cigar factories, soon, were established in the Hartford area. In the 1820s, the production of the leaves also began. At present, besides Cuba, Connecticut offers some of the best wrapper leaves for cigars.

In the early 19th century, Cuban cigars frequently used to get imported into the United States, and domestic production was also started. By the mid 1800s, the cigar became absolutely fashionable and over half of the tobacco smoked in the towns was in the figure of cigars. During the depression, in the early 1920s, the consumption of tobacco fell drastically and cigar manufacturers included designs and colors in packaging to promote their brands. Undoubtedly Cuba guided the way of the cigar industry. In the early 16th century, Cuban peasants became tobacco cultivators. Later on, the cigar became the national symbol of Cuba. And even today, the Havana Cigar is acclaimed as the finest cigar in the world.

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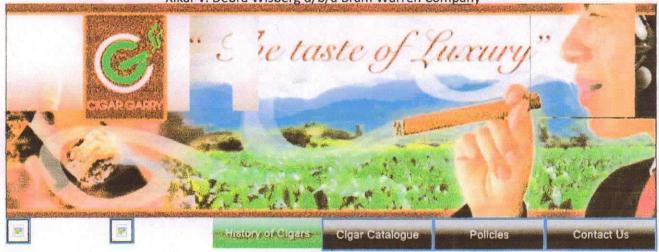
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EXHIBIT "36"

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617
Xikar v. Debra Wisberg d/b/a Bram Warren Company



The History of the Cigar

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The history of the cigar goes back about two thousand years.
The origins of the world 'cigar' and the cigar itself are lost in time. Some scholars say the word cigar originated from sikar, the Mayan word for smoking. It is believed that the cigar has its origins within Central America, where smoking was practiced by the Mayans and later the Aztecs. They were known to have smoked tubes of loosely rolled tobacco leaves, similar to the present day cigars.

After Columbus's discovery of the West Indies and other explorers visiting the American continent, numerous accounts were written of these New World people who smoked tobacco and also used it for chew and as snuff for medicinal properties in their ceremonies.

Smoking came to Europe with the return of Columbus from the New World in 1492. He had been offered some dried leaves as a token of friendship and his men had witnessed how these leaves were used. Columbus himself was not particularly impressed by the custom, but soon Spanish and other European sailors fell for the habit, followed by the conquistadores and colonists. The introduction of tobacco seeds or plants is attributed to Ramon Pane, Columbus' priest on his second voyage. In due course the returning conquistadores introduced tobacco smoking to Spain and Portugal. The habit was considered a sign of wealth, and then it spread to France, through the French ambassador to Portugal, Jean Nicot in 1560 (whom the herb was given its botanical name Nicotiana tabacum, the Latin name for tobacco).

Various people have been credited with being the first to smoke in England. We know tobacco was introduced into England at some time before 1565, when Hawkins returned from a voyage to America. Sir Walter Raleigh is believed to be chiefly responsible for making the smoking habit fashionable. Sailors were really the first to be seen smoking cigars around 1557.

By 1580's, smoking was coming into fashion among the upper classes, though for many years the habit was still frowned upon by their womenfolk to such an extent that the men had to take themselves off to the kitchen or the stables, or puff surreptitiously up the chimney, if they wished to smoke in their own homes.

Although the first lobacco plantations were set up in Virginia in 1612, and Maryland in 1631, tobacco was smoked only in pipes in the American colonies. The cigar itself is thought not to have arrived until after 1762, when Israel Putnam, an American general in the Revolutionary War, returned from Cuba, where he had been an officer in the British army. He came back to his home in Connecticut with a selection of Havana cigars, and large amounts of Cuban tobacco. Before long, cigar factories were set up in the Hartford area. Production of the leaves started in the 1820s, and Connecticut tobacco today provides among the best wrapper leaves to be found outside Cuba. By the early 19th century, not only were Cuban cigars being imported into the United States, but domestic production was also taking off.



EVERY WEEK WE HAVE





EXHIBIT "37" (2 Pages)

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wisberg d/b/a Bram Warren Company

Cigar History



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The first users of tobacco are thought to have been the Mayan people of Central America who are believed to have smoked primitive forms of the cigar as early as 1000 BC. The first two Europeans to smoke cigars were Rodrigo de Jerez and Luis Torres, two of Christopher Columbus's crewmen during his 1492 voyage, who were said to have went ashore in Cuba and found natives smoking tobacco wrapped in corn husks. Columbus is credited for introducing tobacco to Europe on his return to Spain. Rodrigo de Jerez, who had taken to smoking, made the mistake of lighting up a cigar in public. His neighbors in Spain were so frightened by the smoke billowing from his mouth and nostrils that they alerted the Spanish Inquisition who imprisoned Jerez for his sinful and infernal habits. However, by the time he was released seven years later, smoking had caught on in Spain.

Eventually, an entire cigar industry evolved in Spain. Seville, Spain, the focal point of the industry, became known as the birthplace of the modern cigar. For years, Spain imported tobacco leaves from Cuba and assembled the cigars themselves. In 1821, Spain began allowing Cuba to manufacture cigars and Cuba became the leader in the cigar industry. In 1962, when Fidel Castro took over and the United States imposed a trade embargo against Cuba, many Cuban cigar makers moved



their business to the Dominican Republic, Honduras, or Mexico. Thanks to the internet, one can still purchase a nice Cuban cigar fairly easily from places like Canada where there is no such embargo.

There are differences in opinion as to where the word 'cigar' may have originated. Some believe that the word 'cigar' may have derived from sikar, the Mayan word for smoking, while others believe the Spanish word 'cigarro' comes from 'Ciq-Sigan', the Mayan word for cigar. Others suggest that the Spanish word cigarro came from the word 'cigarra,' which is the Spanish word for cicada, due to its shape which is very similar to what is now called the perfecto.

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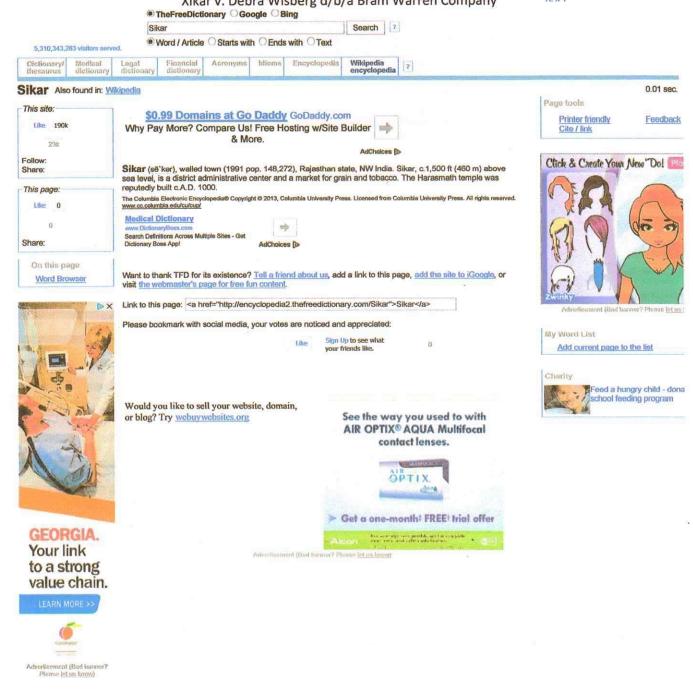
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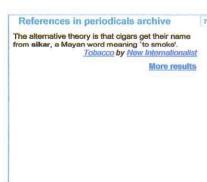
Sikar definition of Sikar in the Free Online Encyclopedia.

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617

Xikar v. Debra Wisberg d/b/a Bram Warren Company















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Code

(1) TYPED DRAWING

Serial Number

Filing Date

August 29, 2001

76306783

Current Basis

1B

Original Filing

Basis

1B

Owner

(APPLICANT) W. Curtis Draper Tobacconist, Inc. CORPORATION DELAWARE 640 14th Street,

N.W. Washington D.C. 20005

Attorney of

Record

KENNETH H. OH

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EXHIBIT "40" (3 Pages)

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wisberg d/b/a Bram Warren Company

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 76/306783

APPLICANT: W. Curtis Draper Tobacconist, Inc.

CORRESPONDENT ADDRESS:

JOHN H.WEBER PEPPER HAMILTON LLP 600 14TH ST NW WASHINGTON DC 20005-2008 RETURN ADDRESS:

Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513 ecom105@uspto.gov

MARK:

SIKAR

CORRESPONDENT'S REFERENCE/DOCKET NO: 124151.0002

MAILING DATE:

June 14, 2002

CORRESPONDENT EMAIL ADDRESS:

N/A

Please provide in all correspondence:

- 1. Filing date, serial number, mark and applicant's name.
- 2. Mailing date of this Office Action.
- 3. Examining Attorney's name and Law Office number.
- 4. Your telephone number and ZIP code.

OFFICE ACTION

TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.

To respond formally using the Office's Trademark Electronic Application System (TEAS), visit http://www.uspto.gov/teas/index.html and follow the instructions.

To respond formally via E-mail, visit http://www.uspto.gov/september11/tmelecresp.htm and follow the instructions.

To respond formally via regular mail, your response should be sent to the mailing Return Address listed above and include the serial number, law office and examiner's name on the upper right corner of each page of your response.

To check the status of your application at any time, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at http://tarr.uspto.gov/

For general and other useful information about trademarks, you are encouraged to visit the Office's web site at http://www.uspto.gov/main/trademarks.htm

FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY.

RE: Serial Number 76/306783 SIKAR

This letter responds to the applicant's communication filed on April 23, 2002.

Mark is Geographically Deceptively Misdescriptive

The examining attorney refuses registration on the Principal Register because the mark is primarily geographically deceptively misdescriptive. Trademark Act Section 2(e)(3), 15 U.S.C. §1052(e)(3); TMEP §1210.01(b).

The examining attorney need only make a prima facie showing that a public association exists between the applicant's goods and SIKAR. The examining attorney need not show the fame of the place, but rather the likelihood that the particular place will be associated with the particular goods. *In re Loew's Theatres, Inc.*, 769 F.2d 764, 226 USPQ 865 (Fed. Cir. 1985). TMEP §§1210.04(a), 1210.04(b) and 1210.04(c).

The primary significance of the term "SIKAR" is geographic. The examining attorney provided evidence in the first office action to demonstrate that SIKAR is a city known for tobacco. The applicant has not provided any evidence to the contrary.

Therefore, the public is likely to believe that the applicant's goods originate in the place named in the mark. *In re Loew's Theatres, Inc.*, 769 F.2d 764, 226 USPQ 865 (Fed. Cir. 1985). TMEP §1210.04 et seq.

According to the applicant its goods do not come from SIKAR. The mark is geographically deceptively misdescriptive because the public would believe that the goods *do* come from SIKAR, or are made with SIKAR tobacco. *In re Loew's Theatres, Inc.*, 769 F.2d 764, 226 USPQ 865 (Fed. Cir. 1985). TMEP §1210.01(b).

The applicant argues that there is no goods/place association with SIKAR and cigars because the city of SIKAR is not known for cigars. This argument is unpersuasive. A descriptive mark describes an ingredient, quality, characteristic, function, feature, purpose or use of the relevant goods. In re Gyulay, 820 F.2d 1216, 3 USPQ2d 1009 (Fed. Cir. 1987); In re Bed & Breakfast Registry, 791 F.2d 157, 229 USPQ 818 (Fed. Cir. 1986); In re MetPath Inc., 223 USPQ 88 (TTAB 1984); In re Bright-Crest, Ltd., 204 USPQ 591 (TTAB 1979); TMEP §1209.01(b). A proposed mark need not identify the goods themselves to be descriptive. In this case, the proposed mark, SIKAR, identifies a source of the goods or the type of tobacco used in the goods, e.g., an ingredient.

Accordingly, the mark is refused registration under Section 2(e)(3).

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

Advisory - Claim of Acquired Distinctiveness/Supplemental Register

A mark which, when used on or in connection with the applicant's goods or services, is primarily geographically deceptively misdescriptive of them, is registrable upon a showing of acquired distinctiveness under Trademark Act Section 2(f), 15 U.S.C. §1052(f), only if it became distinctive of the goods or services in commerce before December 8, 1993, the date of the enactment of the North American Free Trade Agreement Implementation Act, Public Law 103-182, 107 Stat. 2057. Similarly, such a mark, capable of distinguishing the applicant's goods or services, may be registered

on the Supplemental Register only if it has been in lawful use in commerce by the owner since before December 8, 1993. TMEP §§1210.06(a) and (b).

Response

No set form is required for response to this Office action. The applicant must respond to each point raised. The applicant should simply set forth the required changes or statements and request that the Office enter them. The applicant must sign the response. In addition to the identifying information required at the beginning of this letter, the applicant should provide a telephone number to speed up further processing.

If the applicant has any questions or needs assistance in responding to this office action, please telephone the assigned examining attorney.

Idi Aisha Clarke Trademark Attorney Law Office 105 (703) 308-9105 Ext. 174 Fax: (703) 872-9825

EXHIBIT "41" (2 Pages) Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wisberg d/b/a Bram Warren Company



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Trademark Application of

W. Curtis Draper Tobacconist, Inc.

Serial No.: 76/306,783

Filed: August 29, 2001

Mark: SIKAR

Atty. Dkt. No.: 87380-0002

Trademark Examining Operations

Examining Attorney: Idi Aisha Clarke

Law Office: 105

RESPONSE

Response – No Fee Hon. Assistant Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513

Sir:

This is in response to the office action mailed June 14, 2002.

The examiner has issued a second non-final action arguing that applicant's trademark is geographically deceptively misdescriptive. As the examiner is aware, in order to establish a prima facie case for refusal because a mark is primarily geographically deceptively misdescriptive under Section 2(e)(3) of the Act, the examining attorney must show that the primary significance of the mark is geographic; that purchases would be likely to think that the services originate in the geographic place identified in the mark, that is, purchasers would make a services/place association; and that the services do not in fact originate in the place identified in the mark. In re Wada, 194 F.3d 1297, 52 U.S.P.Q.2d 1539 (Fed. Cir. 1999); In re Societe Generale des Eaux Minerales de Vittel S.A., 824 F.2d 957, 3 U.S.P.Q.2d 1450 (Fed. Cir. 1987); In re Loew's Theatres, Inc., 769 F.2d 764, 226 U.S.P.Q. 865 (Fed. Cir. 1985); and In re Nantucket, Inc., 677 F.2d 95, 213 U.S.P.Q. 889 (C.C.P.A. 1982). It is important to note that the word "primarily" in section 2(e)(2) and 2(e)(3) shows that "the intent of the federal statute [is not] to refuse registration of a mark where the geographic meaning is minor, obscure, remote, or unconnected with the goods." World Carpets, Inc. v. Dick Littrell's New World Carpets, 438 F.2d 482, 486, 168 U.S.P.Q. 609, 612-13 (5th Cir. 1971). In addition, whether a mark is primarily geographically deceptively misdescriptive is a question of fact. In re Compagnie Generale Maritime, 993 F.2d 841, 845, 26 U.S.P.O.2d 1652 (Fed. Cir. 1993).

Presently, applicant respectfully argues that the examiner failed to satisfy the examiner's prima facie evidence that the public is likely to recognize SIKAR as primarily as a geographic location, that it is anything more than an remote or obscure location, and that the fact that it grows tobacco is insufficient to demonstrate a goods and place connection with cigars. For all the reasons stated above, applicant requests that the examiner withdraw the refusal to register its mark.

CHANGE OF ADDRESS

Please be advised that the Counsel for applicant, **John H. Weber**, has relocated his offices and changed its telephone and facsimile numbers and therefore requests that the Patent and Trademark Office forward all correspondence with regard to the captioned matter to the following address: BAKER & HOSTETLER LLP, Washington Square, Suite 1100, 1050 Connecticut Avenue, N.W., Washington D.C. 20036-5304, (202) 861-1500 (Telephone), (202) 861-1783 (Facsimile). Applicant hereby appoints the following Attorneys as his Associates with regard to the above-referenced application:

Kenneth J. Sheehan	Gary Rinkermam	Leo. J. Jennings
Edna Vassilovski	Dennis Cawley	Stephen S. Fabry
Kenneth H. Oh	Dawn Sims	Greg Kang
Alan Larson	Bill Lewis	Phong Nguyen

Based on the foregoing, the present response fully addresses the issues raised by the examining attorney. Applicant believes that the application is in condition for publication. If further clarification is needed or if a telephone conference would be useful in resolving any issues pending in this application, Applicant requests that the examiner contact the undersigned.

Respectfully Submitted, W. CURTIS DRAPER TOBACCONIST, INC.

Date: November 29, 2002

By: Kenneth K. Oh
Baker & Hostetler LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036-5304
(202) 861-1500 (Telephone)
(202) 861-1783 (Facsimile)
Attorney for Applicant

EXHIBIT "42"

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wisberg d/b/a Bram Warren Company

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 76/306783

APPLICANT:

W. Curtis Draper Tobacconist, Inc.

CORRESPONDENT ADDRESS:

KENNETH H. OH

BAKER & HOSTETLER LLP

WASHINGTON SQUARE, SUITE 1100 1050 CONNECTICUT AVENUE, N.W. WASHINGTON, D.C. 20036-5304

MARK:

SIKAR

CORRESPONDENT'S REFERENCE/DOCKET NO: 124151.0002

CORRESPONDENT EMAIL ADDRESS:

RETURN ADDRESS:

Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513 ecom105@uspto.gov

If no fees are enclosed, the address should include the words "Box Responses - No Fee."

Please provide in all correspondence:

1. Filing date, serial number, mark

applicant's name.

- 2. Date of this Office Action.
- Examining Attorney's name and Law Office number.
 - Your telephone number and email address.

Serial Number 76/306783 SIKAR

Applicant is requesting reconsideration of a final refusal dated June 17, 2002.

After careful consideration of the law and facts of the case, the examining attorney must deny the request for reconsideration and adhere to the final action as written since no new facts or reasons have been presented that are significant and compelling with regard to the point at issue.

Accordingly, applicant's request for reconsideration is *denied*. The time for appeal runs from the date the final action was mailed. 37 C.F.R. Section 2.64(b); TMEP Section 715.03(c).

/Idi Aisha Clarke/ Trademark Attorney Law Office 105 (703) 308-9105 Ext. 248 Fax: (703) 872-9825

EXHIBIT "43"

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wisberg d/b/a Bram Warren Company

Commissioner for Trademarks 2900 Crystal Drive Arlington , VA 22202-3514 www.uspto.gov

Dec 09, 2003 NOTICE OF ABANDONMENT

TM105

KENNETH H. OH BAKER & HOSTETLER LLP WASHINGTON SQUARE, SUITE 1100 1050 CONNECTICUT AVENUE, N.W. WASHINGTON, D.C. 20036-5304 ATTORNEY REFERENCE NUMBER: 124151.0002

SERIAL NUMBER:

76/306783

MARK:

SIKAR

APPLICANT:

W. Curtis Draper Tobacconist, Inc.

THE ABOVE IDENTIFIED TRADEMARK APPLICATION WAS ABANDONED ON 10/04/2003 FOR THE FOLLOWING REASON:

NO RESPONSE TO THE OFFICE ACTION MAILED ON 04/04/2003 WAS RECEIVED IN THE UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO) WITHIN THE SIX-MONTH RESPONSE PERIOD. (15 U.S.C. 1062(b); TRADEMARK RULE 2.65(a)).

YOU CAN REQUEST REINSTATEMENT OF THE APPLICATION FOR NO FEE IF:

- YOU HAVE PROOF THAT YOUR RESPONSE WAS RECEIVED IN THE USPTO ON OR BEFORE THE DUE DATE -SUCH AS A POSTCARD WITH A USPTO MAILROOM DATE STAMP; OR,
- * YOU MAILED OR FAXED THE RESPONSE ON OR BEFORE THE DUE DATE WITH A CERTIFICATE OF MAILING OR FACSIMILE TRANSMISSION, IN ACCORDANCE WITH USPTO RULE 2.197, 37 CFR SEC. 2.197.

YOU MUST SUBMIT A COPY OF THE PREVIOUSLY SUBMITTED TIMELY RESPONSE WITHIN 2 MONTHS OF THE DATE PRINTED AT THE TOP OF THIS NOTICE ALONG WITH ONE OF THE TYPES OF PROOF SET OUT ABOVE. YOU MAY FAX THIS INFORMATION TO (703) 746-3000.

IF YOU DO NOT HAVE THE PROOF NECESSARY FOR REINSTATEMENT, YOU CAN REQUEST REVIVAL OF THE APPLICATION, UNDER USPTO RULE 2.66, 37 CFR SEC. 2.66, BY:

- * FILING A "PETITION TO REVIVE" WITHIN 2 MONTHS OF THE DATE PRINTED AT THE TOP OF THIS NOTICE, INDICATING THAT THE REASON FOR THE DELAY IN RESPONDING BY THE DUE DATE WAS "UNINTENTIONAL";
- * PAYING THE PETITION FEE OF \$100, MADE PAYABLE TO THE COMMISSIONER OF TRADEMARKS; AND
- * INCLUDING A COPY OF THE RESPONSE TO THE OFFICE ACTION (IF YOU DID RECEIVE THE OFFICE ACTION OTHERWISE, INCLUDE A STATEMENT THAT YOU DID NOT RECEIVE THE OFFICE ACTION.)

FOR FURTHER INFORMATION CALL (703) 308-9000

EXHIBIT "44"

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wisberg d/b/a Bram Warren Company

In April of 1998, Van Keppel and Almsberger were ready to put their new cutter to the ultimate test. They sent a cutter to each member of the TAA (Tobacconist Association of America), a total of 100 units. The packages contained a letter, one Xi cutter, and a testimonial from Curt Diebel, a Kansas City tobacconist and member of the TAA. The results exceeded their expectations. After using the Xi cutter, almost all of the retailers placed an order for more.

By the time the 1998 Retail Tobacco Dealers Association met in Nashville, Van Keppel and Almsberger had their cutters in regular production and it wasn't long before they began serving the entire retail tobacco trade.

"At that very first trade show, I was by myself sharing an eight foot table with another vendor," said Van Keppel. "The show was packed, and people were weaving in and out of every aisle. I stood behind my table, clicking my Xi cutter open and closed, over and over. People noticed the cutter's unique snipping sound and curiously turned around to talk to me. Just the sound of the cutter alone drew them in!"

Van Keppel and Almsberger continued to work out of their garage selling cutters whenever they could. Finally, in 1999, the two men received their patent for the Xi Cutter, complete with its unique tear-drop shape and 440 stainless steel blades.

"It was so exciting to get the patent document with the red ribbon on it," said Van Keppel. "I immediately called Scott who rushed over. Just *seeing* the patent, it sunk-in that we were actual inventors."

The name XIKAR originated from the word sikar, which is said to be the first J Spanish spelling of the Taino word for cigar. The Tainos were the indigenous populations of Hispaniola and Cuba, where Columbus first landed when he discovered the New World and tobacco along with it. "We first pronounced the name like 'cigar' but multiple times people would call us and say, 'Is this XIKAR (Zy-car)?' And we'd say, 'Sure!'" said Almsberger.

A pivotal moment for the two founders came in 2001 while visiting a retail shop. A consumer approached them to give a compliment, and unlike the typical XIKAR consumer, the man didn't say, "Your cutter is so cool." Instead he complimented them on their outstanding customer service.

"I knew at that moment the brand had grown bigger than the product itself, which was an incredible feeling of accomplishment," said Van Keppel.

Van Keppel and Almsberger have gone from assembling cutters in their garage in 1994, to becoming the world's leading manufacturer of cigar accessories today. XIKAR attributes this success to two essences, product innovation and extraordinary customer experience. Product innovation is centered on four key elements; function, form (artful to the eye), feel (ergonomic to the hand), all at a fair price.

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wisberg d/b/a Bram Warren Company

Products

Warranty

Engraving

Where to Buy

Blog

Catalogs

Events

About

My Cart



^ Click image for close-up view

XIKAR Xi3 Mayan Collection Cloisonne Cutter

XIKAR's NEW Mayan Collection Cloisonne Cutter is a spectacular portrait of the ancient technique for decorating metalwork objects. Cloisonne first developed in the Ancient Near East and now XIKAR has created a collectible piece for life.

Mayan architecture spans many thousands of years. The most dramatic and easily recognizable as Mayan are the stepped pyramids from the Terminal Pre-classic period and beyond. Many consider Maya art of their Classic Era (c. 250 to 900 AD) to be the most sophisticated and beautiful of the ancient New World. We have only hints of the advanced painting of the classic Maya; mostly what has survived are pottery and other Maya ceramics, and a building at Bonampak holds ancient murals that survived by chance. The Mayan culture excelled in many different fields, and testaments of their achievements are found throughout modern history. XIKAR has a strong affiliation with the Mayan culture which is illustrated in this great collection of lighters and cutters.

Cloisonne jewelry has been around for many years. The technique originated in the ancient Near East and gradually spread to other parts of the world. Chinese cloisonné is the best



known enamel cloisonné. The simple elegance of color and pattern combined with a unique design make cloisonne pieces some the most sought after jewelry.; Each piece is carefully made to match perfectly in design, color, pattern, and feel.

Cloisonne enamel jewelry is created with an ancient metalworking technique perfected in the Orient. The Enamel is made of glass crushed into powder and covered with other precious metals then placed onto an enameled surface and held together using intense heat under fire. XIKAR has designed a cloisonne cutter that resembles the elegance and beauty of the original cloisonne jewelry.

All Xi cutters are the same ring gauge: they will cut a 54 ring gauge cigar in half. Depending on how much cap you cut, they will cut up to a 58 ring gauge cigar.

Cutters:

007 Punches

009 Punches

011 Punches

744 Cigar Cut Knife

MTX Multi-Tool

Ultra Slim

VX V-Cut

X8 64 Ring Gauge

Xil

Xi2

Xi3



How to Cut with a Double Guillotine

Collections:

Carbon Fiber Havana Collection Liga Privada Mayan Collection Room101 Collection

Lighters

Humidification

Containers

Butane

Accessories

Find a Retailer

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wisberg d/b/a Bram Warren Company

Products

Warranty

Engraving

Where to Buy

Blog

Catalogs

Events

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My Cart





^ Xi3 Mayan X Cloisonne



^ Versa: Mayan Cloisonne Lighter



^ Mayan Cloisonne Tabletop Lighter

^ Click image for close-up view

Mayan Collection

Tribal Origins Meet Modern Technology

XIKAR has designed an inspiring collection of cigar accessories that reveal the artistry of the Mayan civilization, one of the grandest in the world, XIKAR's Mayan Collection is symbolic of the indigenous descendants while the beautiful collaboration enhances the collectability of these one-of-a-kind series. Mayan ancient art combined with XIKAR's cutter, lighter and table tops capture the awe-inspiring culture in a singular masterpiece.

Mayan architecture spans many thousands of years and recognizable by the stepped pyramids from the Terminal Preclassic period and beyond. Many consider Mayan art of their Classic Era (c. 250 to 900 AD) to be the most sophisticated and beautiful of the ancient New World. XIKAR has a strong affiliation with the Mayan culture which is illustrated in this great collection of lighters and cutters.

Xi3 Mayan Collection Cutters

Xi3 Mayan X Cloisonné Cutter

Mayan X Cloisonné Cutter has a unique design that reveals the artistry of the Mayan civilization. Mayan X Cloisonné Cutter is symbolic of the indigenous descendents and portrays the beautiful cloisonné artwork. XIKAR and Mayan have enhanced this one-of-a-kind cigar cutter, which compliments the entire collection. The superior feel and design of this cutter make it a unique addition to any collection.

Xi3 3D Mayan Cutter

3D Mayan Cutter is XIKAR's ultimate masterpiece of the Mayan civilization. This is a cutter that's as physically imposing as the Mayan culture that inspired it. The 3D cutter is enhanced by depth perception of sophisticated beauty of the ancient New World. The craftsmanship and design make this 3D cutter a timeless luxury for the serious cigar enthusiasts. View similar products...

Mayan Collection Lighters

Mayan Cloisonné Table Top Lighter

Mayan Cloisonné Triple-Flame Table Top Lighter is the perfect cigar tool to toast the foot of your favorite HC Series Cigar. The Mayan triple flame performance is more than brute power; it is a warm welcome to any cigar. Mayan Cloisonné Triple Flame is symbolic of XIKAR's positioning statement... The Best Thing to Happen to Cigars Since Fire. View similar products...

Mayan Cloisonné Versa Lighter

Collections

Carbon Fiber Havana Collection Liga Privada Mayan Collection Room101 Collection

Cutters

Lighters

Humidification

Containers

Butane

Accessories

Find a Retailer

EXHIBIT "47" (5 pages)

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

filed June 14, 2012, CICAR		
XIKAR, INC.,)	
Opposer,)	
V.)	Opposition No. 91209617
DEBRA WISEBERG D/B/A BRAM WARREN COMPANY,)	
Applicant.)))	

In an Amelianting Carial No. 05/652 406

OPPOSER'S ANSWERS AND SUPPLEMENTAL ANSWERS TO APPLICANT'S FIRST SET OF INTERROGATORIES

Pursuant to 37 C.F.R § 2.120 and Fed. R. Civ. P. 26 and 33, Opposer, Xikar, Inc., by and through its attorneys, hereby supplements its answers to Applicant's First Set of Interrogatories. Opposer reserves the right to further supplement its answers to these interrogatories upon the discovery of additional information through discovery or otherwise.

GENERAL OBJECTIONS

- Opposer objects to Applicant's definitions and instructions to the extent they seek
 to require Opposer to do more than that which is required by the Federal Rules of Civil
 Procedure and the Trademark Rules.
- 2. Opposer objects to each and every interrogatory to the extent it calls for the disclosure of attorney-client privileged communications and/or attorney work product. Opposer will not undertake to locate and log communications between Opposer and Applicant regarding the subject matter of this proceeding dated after the institution of this action.

Interrogatory No. 4:

Describe in detail the exact pronunciation used by you for the Opposer's mark "Xikar" since its inception.

Answer:

ZI-car (long i, hard c, accent on the first syllable); Ze-CAR (soft e, hard c, accent on the second syllable; Ci-CAR (soft initial C, soft i, hard second c and accent on the second syllable).

Interrogatory No. 7:

Describe in detail the exact characteristics of the Applicant's mark "Cicar" in which you believe you have a sole right of use and control, by and through your mark "Xikar".

Answer:

Opposer objects to this interrogatory on the ground that it seeks irrelevant information and information not reasonably calculated to lead to the discovery of admissible evidence as Opposer's belief is not at issue in this proceeding. Furthermore, Opposer objects on the ground that this interrogatory is vague and ambiguous to the extent "the exact characteristics of the Applicant's mark 'Cicar'" has not been defined and is not understood.

Subject to the foregoing general and specific objections, Opposer does not claim an exclusive right to use the word "cicar". However, Opposer owns the incontestable right to use the mark Xikar and owns the right to use the mark Xikar For Life. As a result, Opposer has the right to exclude others from using any name, mark or designation confusingly similar thereto, including Cicar. See 15 U.S.C. § 1114(1)(a); Beer Nuts, Inc. v. Clover Club Foods Co., 805 F.2d

920, 924 (10th Cir. 1986). Two of the most important factors used in determining likelihood of confusion are similarity of the marks and the relatedness of the goods on which the marks are used. *Mattel, Inc. v. Funline Merchandise Co., Inc.*, 81 U.S.P.Q.2d 1372 (TTAB 2006). Another factor to consider is overlap in channels of trade. *Id.*

As is the case in this proceeding, when the marks are similar and the goods are closely related, a likelihood of confusion exists. *In Re White Swan Ltd.*, 8 U.S.P.Q.2d 1534 (TTAB 1988). This is even a stronger case than in *White Swan*. In addition to Opposer's registered cigar cutters and other cigar accessory products that are closely related to Applicant's ashtrays for smokers, Opposer has also used its Xikar mark on the identical product, ashtrays for smokers, since prior to Applicant. *Sengoku Works Ltd. v. RMC Intern., Ltd.*, 96 F.3d 1217, 1219 (9th Cir. 1996). Furthermore, the channels of trade through which Opposer and Applicant directly overlap. Because neither Applicant's product description in its application for registration nor Opposer's product descriptions in its registrations specify a channel of trade, it is presumed that the parties sell their respective goods in all of the usual trade channels for goods of this type. *Mattel, Inc. v. Funline Merchandise Co., Inc.*, 81 U.S.P.Q.2d 1372 (TTAB 2006).

Interrogatory No. 8:

Describe in detail your strong affiliation with the Mayan culture.

Answer:

Opposer objects to this interrogatory on the ground that it seeks irrelevant information and information not reasonably calculated to lead to the discovery of admissible evidence as an affiliation with the Mayan culture is not at issue and has no bearing on any issue in this proceeding. Opposer further objects on the ground the interrogatory is vague and

ambiguous as "affiliation" has not been defined and is not understood.

Subject to the foregoing general and specific objections, Opposer sells several lighters and cutters with art inspired by Mayan designs. Opposer has also stated in past marketing publications that its name was inspired by the Mayan word for cigar.

Interrogatory No. 9:

Describe in detail what connection, if any, the Opposer or its products have with Havana, Cuba.

Answer:

Opposer objects to this interrogatory on the ground that it seeks irrelevant information and information not reasonably calculated to lead to the discovery of admissible evidence as Havana, Cuba is not at issue and has no bearing on any issue in this proceeding.

Subject to the foregoing general and specific objections, Opposer does not have any connection with Havana, Cuba. Opposer sells several lighters and cutters with art inspired by Cuban designs.

EXHIBIT "48" (2 pages) Trademark Electronic Search System (T



Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wisberg d/b/a Bram Warren Company

Site Index Scarch FAQ Glossary Guides Contacts eBusiness eBiz alerts News Help

Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Apr 16 03:22:09 EDT 2014

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OR Jump to record:

Record 3 out of 3

TSDR

ASSIGN Status

TTAB Status

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return to TESS)

HAVANA COLLECTION

Word Mark

HAVANA COLLECTION

Goods and Services

(ABANDONED) IC 034. US 002 008 009 017. G & S: CIGAR CUTTERS; NON-ELECTRIC CIGAR LIGHTERS NOT OF PRECIOUS METAL; HUMIDORS; AND CIGAR CARRYING CASES NOT OF PRECIOUS METAL. FIRST USE: 20060800. FIRST USE IN COMMERCE: 20060800

Standard

Characters Claimed

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Serial

77273188

Number

Filing Date

September 6, 2007

Current Basis 1A

Original Filing Basis

1A

Published for

Opposition

May 27, 2008

Owner

(APPLICANT) XIKAR, INC. CORPORATION KANSAS 3305 Terrace Street Kansas City MISSOURI

64111

Attorney of Record

J. DAVID WHARTON, REG. NO. 25,717

Disclaimer

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "COLLECTION" APART FROM THE MARK

AS SHOWN

Type of Mark TRADEMARK

Register

PRINCIPAL

Live/Dead Indicator

DEAD

Date

Abandonment January 28, 2013

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EXHIBIT "49" (10 pages)

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wisberg d/b/a Bram Warren Company

PTO Form 1478 (Rev 9/2006) CMB No. 1981-0009 (Eva 12/21/2008)

Trademark/Service Mark Application, Principal Register

Serial Number: 77273188 Filing Date: 09/06/2007

The table below presents the data as entered.

Input Field	Entered		
SERIAL NUMBER	77273188		
MARK INFORMATION			
*MARK	HAVANA COLLECTION		
STANDARD CHARACTERS	YES		
USPTO-GENERATED IMAGE	YES		
LITERAL ELEMENT	HAVANA COLLECTION		
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.		
REGISTER	Principal		
APPLICANT INFORMAT	ION		
*OWNER OF MARK	XIKAR, INC.		
*STREET	3305 Terrace Street		
*CITY	Kansas City		
*STATE (Required for U.S. applicants)	Missouri		
*COUNTRY	United States		
*ZIP/POSTAL CODE (Required for U.S. applicants only)	64111		
LEGAL ENTITY INFORM	MATION		
ТУРЕ	corporation		
STATE/COUNTRY OF INCORPORATION	Kansas		
GOODS AND/OR SERVICE	CES AND BASIS INFORMATION		
*INTERNATIONAL CLASS	RNATIONAL CLASS 034		

*IDENTIFICATION	CIGARS; CIGAR CUTTERS; NON-ELECTRIC CIGAR LIGHTERS NOT OF PRECIOUS METAL; HUMIDORS; AND CIGAR CARRYING CASES NOT OF PRECIOUS METAL		
FILING BASIS	SECTION 1(a)		
FIRST USE ANYWHERE DATE	At least as early as 08/00/2006		
FIRST USE IN COMMERCE DATE	At least as early as 08/00/2006		
SPECIMEN FILE NAME(S)	\\TICRS2\EXPORT13\\772\\731\\77273188\\xml1\\APP0003.JP <u>G</u>		
	\\TICRS2\EXPORT13\772\731\77273188\xml1\APP0004.JP		
	\\TICRS2\EXPORT13\772\731\77273188\xml1\APP0005.JP		
SPECIMEN DESCRIPTION	SCANNED IMAGE OF PRODUCT INSERT		
ATTORNEY INFORMATI	ON		
NAME	J. DAVID WHARTON, REG. NO. 25,717		
ATTORNEY DOCKET NUMBER	506408-0026		
FIRM NAME	STINSON MORRISON HECKER LLP		
STREET	1201 WALNUT, SUITE 2800		
INTERNAL ADDRESS	STINSON TRADEMARK ADMINISTRATOR		
CITY	KANSAS CITY		
STATE	Missouri		
COUNTRY	United States		
ZIP/POSTAL CODE	64106-2150		
PHONE	816.842.8600		
FAX	816.691.3495		
EMAIL ADDRESS	TRADEMARK@STINSON.COM		
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes		
OTHER APPOINTED ATTORNEY	PENNY R. SLICER, REG. NO. 34,017, CONSTANCE M. JORDAN, TIMOTHY J. FEATHERS, NANCY T. MORRIS, REG. NO. 42,017, JAMES H. MARSH, JR., REG. NO. 24,533, JUDITH L. CARLSON, REG. NO. 41,904, LANA M. KNEDLIK, REG. NO. 42,748, MARK C. YOUNG, REG.		

NO. 48,670, BRADLEY P. HARTMAN, FRANK G. LONG,
KENNETH SPAFFORD, KAREN L. LIEPMANN, JOHN A.
LEPORE AND JAMES J. CRONIN

	LEPORE AND JAMES J. CRONIN		
CORRESPONDENCE IN	FORMATION		
NAME	J. DAVID WHARTON, REG. NO. 25,717		
FIRM NAME	STINSON MORRISON HECKER LLP		
STREET	1201 WALNUT, SUITE 2800		
INTERNAL ADDRESS	STINSON TRADEMARK ADMINISTRATOR		
CITY	KANSAS CITY		
STATE	Missouri		
COUNTRY	United States		
ZIP/POSTAL CODE	64106-2150		
PHONE	816.842.8600		
FAX	816.691.3495		
EMAIL ADDRESS	TRADEMARK@STINSON.COM		
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes		
FEE INFORMATION			
NUMBER OF CLASSES	1		
FEE PER CLASS	325		
*TOTAL FEE DUE	325		
*TOTAL FEE PAID	325		
SIGNATURE INFORMA	TION		
* SIGNATORY FILE	\\TICRS2\EXPORT13\772\731\77273188\xml1\APP0006.JPC		
SIGNATORY'S NAME	Kurt Van Keppel		
SIGNATORY'S POSITION	President		

Trademark/Service Mark Application, Principal Register

Serial Number: 77273188 Filing Date: 09/06/2007

To the Commissioner for Trademarks:

MARK: HAVANA COLLECTION (Standard Characters, see mark) The literal element of the mark consists of HAVANA COLLECTION. The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, XIKAR, INC., a corporation of Kansas, having an address of

3305 Terrace Street

Kansas City, Missouri 64111

United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

International Class 034: CIGARS; CIGAR CUTTERS; NON-ELECTRIC CIGAR LIGHTERS NOT OF PRECIOUS METAL; HUMIDORS; AND CIGAR CARRYING CASES NOT OF PRECIOUS METAL

Use in Commerce: The applicant is using the mark in commerce, or the applicant's related company or licensee is using the mark in commerce, or the applicant's predecessor in interest used the mark in commerce, on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended.

In International Class 034, the mark was first used at least as early as 08/00/2006, and first used in commerce at least as early as 08/00/2006, and is now in use in such commerce. The applicant is submitting one specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) SCANNED IMAGE OF PRODUCT INSERT.

Specimen File1

Specimen File2

Specimen File3

The applicant hereby appoints J. DAVID WHARTON, REG. NO. 25,717 and PENNY R. SLICER, REG. NO. 34,017, CONSTANCE M. JORDAN, TIMOTHY J. FEATHERS, NANCY T. MORRIS, REG. NO. 42,017, JAMES H. MARSH, JR., REG. NO. 24,533, JUDITH L. CARLSON, REG. NO. 41,904, LANA M. KNEDLIK, REG. NO. 42,748, MARK C. YOUNG, REG. NO. 48,670, BRADLEY P. HARTMAN, FRANK G. LONG, KENNETH SPAFFORD, KAREN L. LIEPMANN, JOHN A. LEPORE AND JAMES J. CRONIN of STINSON MORRISON HECKER LLP

STINSON TRADEMARK ADMINISTRATOR

1201 WALNUT, SUITE 2800

KANSAS CITY, Missouri 64106-2150

United States

to submit this application on behalf of the applicant. The attorney docket/reference number is 506408-0026.

Correspondence Information: J. DAVID WHARTON, REG. NO. 25,717

STINSON TRADEMARK ADMINISTRATOR

1201 WALNUT, SUITE 2800

KANSAS CITY, Missouri 64106-2150

816.842.8600(phone)

816.691.3495(fax)

TRADEMARK@STINSON.COM (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

Declaration

Signatory's Signature: signatory file Signatory's Name: Kurt Van Keppel Signatory's Position: President

RAM Sale Number: 616

RAM Accounting Date: 09/07/2007

Serial Number: 77273188

Internet Transmission Date: Thu Sep 06 15:29:33 EDT 2007 TEAS Stamp: USPTO/BAS-63.174.91.3-200709061529337911

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HAVANA COLLECTION

The Havana Collection





Certificate of Authenticity

Havaria Collection
This extremely limited production cutter features leandmade, original bandle art, created in Paris.
The mixed media decoupsage art is constructed from Cuban sigar band paper. Handles of maple wood are hand painted and protected with a clear varnish. A genuine, exotic Stingray leather sheath ologantly protects the cutter for a lifetime.

Contin of July

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature Section:

Signature: Kufter Koppel -

Date Signed: 9/4/07 Signatory's Name: Kurt Van Keppel

Signatory's Position: President

EXHIBIT "50" (22 pages)

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wisberg d/b/a Bram Warren Company

THIS OPINION IS NOT A PRECEDENT OF THE TTAB

Mailed: November 13, 2012

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

Corporacion Habanos, S.A. and Empressa Cubano del Tabaco, dba, Cubatabaco

U.

Xikar, Inc.

Opposition No. 91186534

David B. Goldstein of Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C. for Corporacion Hababos, S.A. and Empressa Cubano del Tabaco.

J. David Wharton of Stinson Morrison Hecker LLP for Xikar, Inc.

Before Bucher, Bergsman and Shaw, Administrative Trademark Judges.

Opinion by Bergsman, Administrative Trademark Judge:

Xikar, Inc. ("applicant") filed a use based application for the mark HAVANA COLLECTION, in standard character form, for goods ultimately identified as "cigar cutters; non-electric cigar lighters not of precious metal; humidors; and cigar carrying cases not of precious metal," in Class 34. Applicant disclaimed the exclusive right to use the word "Collection."

Corporacion Hababos, S.A. and Empressa Cubano del Tabaco ("opposers") opposed the registration of applicant's mark under Section 2(e)(3) of the Trademark Act of 1946, 15 U.S.C. § 1052(e), on the ground that applicant's mark is primarily geographically deceptively misdescriptive because, according to opposers, despite the consumer association between Havana and cigar accessories, applicant's goods do not come from Havana, Cuba.¹

The Record

The record includes the pleadings and, by operation of Trademark Rule 2.122(b), 37 C.F.R. § 2.122(b), applicant's application file. In addition, the parties introduced the following testimony and evidence:

A. Opposers' testimony and evidence.

1. Declaration of Ana López Garcia, former Director of Marketing at Corporacion Habanos, S.A., former Corporate Director at the English firm of Hunters & Frankau Ltd., a cigar import and distribution company that is the exclusive United Kingdom distributor of cigars imported from Cuba by Habanos, S.A., and currently an employee at Empressa Cubano del Tabaco involved in

¹ Opposers also asserted that applicant's mark is deceptive under Section 2(a) of the Trademark Act, 15 U.S.C. § 1052(a). However, the Federal Circuit has held that with the NAFTA amendments, Section 2 of the Trademark Act "no longer treats geographically deceptively misdescriptive marks differently from geographically deceptive marks," and anticipated that the "PTO will usually address geographically deceptive marks under subsection 2(e)(3) of the amended Lanham Act rather than subsection 2(a)." In re California Innovations Inc., 329 F.3d 1334, 1340, 66 USPQ2d 1853, 1856-57 (Fed. Cir. 2003), reh'g denied, 2003 U.S. App. LEXIS 18883 (Fed. Cir. Aug. 20, 2003). Thus, the legal standards for determining whether, post-NAFTA, a mark is primarily geographically deceptively misdescriptive under § 2(e)(3) are the same as those applied in determining deceptiveness under Section 2(a). Id. at 1857.

marketing and exporting Cuban cigars and cigar related accessories, with attached exhibits.²

- 2. Notice of reliance on the following items:³
 - a. Entries for "Havana" from encyclopedias, dictionaries, and THE

 COLUMBIA GAZETTEER OF THE WORLD purportedly to
 show that Havana is a well-known geographic location in Cuba,
 that Havana has meaning as a cigar made in Cuba or grown
 from Cuban tobacco, and that Havana is known for the
 production of cigars and tobacco products;
 - b. Excerpts from "consumer-oriented English-language cigar books published or sold in the United States, which purportedly use the term 'Havana(s)' or 'Havana cigar(s)' to mean cigars manufactured in Cuba from Cuban tobacco and that Havana is known for as a source for humidors;
 - c. Excerpts from the Cigar Aficionado magazine and website purportedly to show that cigar accessories are advertised and

² The parties filed a stipulation on April 13, 2011 agreeing that opposers may introduce the Declaration of Ana Lopez Garcia as her trial testimony.

³ Opposers also introduced excerpts from applicant's product catalogues through the notice of reliance, however, product catalogues are not publications in general circulation among members of the general public within the meaning of Trademark Rule 2.122(e) and, therefore, we have not considered the catalogues. See Hiraga v. Arena, 90 USPQ2d 1102, 1104-05 (TTAB 2009). Opposers introduced an affidavit of Steve J. Albert, Senior Account Manager at LanguageWorks, regarding the translation of the phrase "a la Havane." However, because the parties did not stipulate to the introduction of Mr. Albert's affidavit as testimony, we have not considered the affidavit. See Trademark Rule 2.123(b) ("By written agreement of the parties, the testimony of any witness or witnesses of any party, may be submitted in the form of an affidavit by such witness or witnesses.").

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- covered in news articles along with cigars and that cigar accessories are made in Cuba;
- d. Excerpts from the *Smoke* magazine and website and the *Tobacco Journal International* magazine purportedly to show that cigar accessories are advertised and covered in news articles along with cigars and that cigar accessories are made in Cuba;
- e. Excerpts from the *Smokeshop* magazine and website purportedly to show that cigar accessories are advertised and written about in news articles along with cigars and that cigar accessories are made in Cuba;
- f. News articles from U.S. newspapers discussing and referring to "Havana(s)" or "Havana cigar(s)" as cigars and discussing humidors made in Cuba;
- g. Nine articles found on the Internet discussing the fame and reputation of Cuban-origin cigars;
- h. Entries from four websites discussing Cuban-origin cigars, including a National Cigar Museum.com article about humidors made in Cuba;
- Entries from opposer Habanos, S.A.'s website and the website of one of its distributors featuring the sale of humidors made in Cuba;
- j. Excerpts from applicant's website;

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- k. Excerpts from the websites of cigar retailers advertising applicant's products;
- Applicant's Supplemental Responses to Opposers' First Set of Interrogatories;
- m. Applicant's Responses to Opposers' Second Set of Interrogatories;
- n. A copy of Registration No. 1970911 for the mark LA CASA DEL HABANO and design and Registration No. 2177837 for the mark HABANOS UNICOS DESDE 1492 and design printed from the electronic records of the United States Patent and Trademark Office showing the current status and title to the registration;
- o. Entries from English-Spanish dictionaries translating the terms

 "Habano" and "Habana"; and
- p. Excerpts from the discovery deposition of applicant's President Kurt Van Keppel with attached exhibits.
- 3. Opposers' rebuttal notice of reliance on the following items:
 - a. Excerpts from applicant's website;
 - b. Excerpts from websites of four purported cigar retailers; and
 - c. Excerpts from cigar magazines Cigar Aficionado, Smoke and Smokeshop.

B. Applicant's testimony and evidence.

- 1. Notice of reliance on the following items:
 - a. Wikipedia entry for Cuba;
 - b. CIA The World Fact Book (cia.gov) entry for Cuba;
 - c. Cigar Encyclopedia website (cigarencyclopedia.com) entry for applicant;
 - d. Wikipedia entry for Havana
 - e. COLUMBIA ENCYCLOPEDIA (6th ed. 2007) entry for Havana
 - f. Webpage from NYCGO.com entitled "Havana Central Times Square";
 - g. Ezinearticles.com webpage entitled "A Moveable Feast In Havana";
 - h. A webpage from Havanacentral.com;
 - i. Excerpts from opposers' application files;
 - j. Excerpts from opposers' registration files;
 - k. Excerpt from opposer Habanos website (habanos.com);
 - Excerpts from Perelman's International Directory of RETAIL TOBACCONISTS (2008); and
 - m. Printouts from applicant's website.
- 2. The entire discovery deposition of applicant's President Kurt Van Keppel with attached exhibits.⁴

⁴ In their April 13, 2011 stipulation, the parties agreed that Mr. Van Keppel's deposition may be introduced into evidence.

Standing

Ana López Garcia testified that "[s]ince its creation in 1994, Habanos S.A. has been responsible for the promotion and marketing in Cuba and abroad of all Cuban premium, that is, hand-made, cigar brands and cigar-related accessories." The precise nature of the business of opposer Empressa Cubano del Tabaco is not clear from Ms. Garcia's affidavit. However, she testified that while employed by that company she was involved in the marketing and export of Cuban cigars and cigar-related accessories. In addition, Ms. Garcia testified as follows:

During my employment with [Empressa Cubano del Tabaco] and Habanos S.A., I have joined or directed strategic efforts to position premium Cuban cigar brands and cigar-related products for introduction to the U.S. market upon termination of the present embargo on U.S.-Cuba trade. The size of the U.S. economy, the number of U.S. cigar consumers, and the proximity of the United States to Cuba make the U.S. market an important factor in [Empressa Cubano del Tabaco's] and Habanos S.A.'s long-term planning. All of the marketing strategies and policies I devised as Habanos S.A.'s Director of Marketing are formed in part by the prospect of eventual entry into the U.S. domestic market.⁷

Accordingly, opposers have a legitimate personal interest in this proceeding and, therefore, have standing. See Ritchie v. Simpson, 170 F.3d 1092, 50 USPQ2d 1023, 1025 (Fed. Cir. 1999); Lipton Industries, Inc. v. Ralston Purina Co., 670 F.2d 1024, 213 USPQ 185 (CCPA 1982).

⁵ Garcia Affidavit ¶7.

⁶ Id.

⁷ Id. at ¶11.

Whether the mark HAVANA COLLECTON for cigar accessories is primarily geographically deceptively misdescriptive?

The elements of a claim under Trademark Act § 2(e)(3) are as follows:

- (1) The primary significance of the mark is a generally known geographic location;
- (2) The goods or services do not originate in the place identified in the mark;
- (3) Purchasers would be likely to believe that the goods or services originate in the geographic place identified in the mark; and
- (4) The misrepresentation would be a material factor in a significant portion of the relevant consumers' decision to buy the goods or use the services.

 See In re Spirits Int'l, N.V., 563 F.3d 1347, 90 USPQ2d 1489, 1495 (Fed. Cir. 2009);

 U.S. Playing Card Co. v. Harbro, LLC, 81 USPQ2d 1537, 1540 (TTAB 2006), In re

 California Innovations, 66 USPQ2d at 1858; In re Compania de Licores

 Internacionales S.A., 102 USPQ2d 1841, 1843 (TTAB 2012).

A. The primary significance of the term "Havana."

A mark is not primarily geographic where the geographic meaning is obscure, minor, remote, or not likely to be connected with the goods. *In re Wada*, 194 F.3d 1297, 52 USPQ2d 1539, 1540 (Fed. Cir. 1999) (NEW YORK WAYS GALLERY held primarily geographically deceptively misdescriptive where manufacturing listings and Nexis® excerpts showed that handbags and luggage are designed and manufactured in New York); *In re Jacques Bernier, Inc.*, 894 F.2d 389, 13 USPQ2d 1725, 1726 (Fed. Cir. 1990); *In re Compania de Licores Internacionales S.A.*, 102

USPQ2d at 1844-45. Because the applied-for mark is a composite mark, HAVANA COLLECTION must be evaluated as a whole. In re Save Venice New York, Inc., 259 F.3d 1346, 59 USPQ2d 1778, 1782 (Fed. Cir. 2001) (THE VENICE COLLECTION and SAVE VENICE INC. composite marks featuring an image of the winged Lion of St. Mark held primarily geographically deceptively misdescriptive of products that do not originate in Venice, Italy, where an encyclopedia and a gazetteer showed that Venice was a large metropolitan area where fine art objects, glassware, and decorative items had been made and sold for centuries, and a popular tourist destination); In re Compania de Licores Internacionales S.A., 102 USPQ2d at 1844-45. It is not improper, however, to give greater weight to the dominant feature of a composite mark in the course of evaluating the mark as a whole. In re Wada, 52 USPQ2d at 1541; In re Compania de Licores Internacionales S.A., 102 USPQ2d at 1845.

To support a refusal to register geographic matter, the Trademark Act requires that the mark be primarily geographic, that is, that its primary significance be that of a geographic location. The fact that the proposed mark has meaning or usage other than as a geographic term does not necessarily alter its primary geographic significance. Thus, if a geographic term has another meaning, we must determine whether the primary significance is geographic. See, e.g., In re Wada, 52 USPQ2d at 1540 (the primary geographic significance of NEW YORK is not lost by the addition of the words WAYS GALLERY); In re Compania de Licores Internacionales S.A., 102 USPQ2d at 1845-46 (the primary significance of HAVANA

in the mark OLD HAVANA is the city of Havana); In re Opryland USA Inc., 1 USPQ2d 1409 (TTAB 1986) (THE NASHVILLE NETWORK held primarily geographically descriptive of television program production and distribution services, the Board finding that the primary significance of the term was Nashville, Tennessee, and not that of a style of music); In re Cookie Kitchen, Inc., 228 USPQ 873, 874 (TTAB 1986) (the fact that MANHATTAN identifies an alcoholic cocktail does not alter the primary significance of that term as a borough of New York City); In re Jack's Hi-Grade Foods, Inc., 226 USPQ 1028, 1029 (TTAB 1985) (finding that the fact that NEAPOLITAN identifies, among other things, a type of ice cream, does not alter the primary significance of that term as meaning "of or pertaining to Naples in Italy").

Applicant concedes that Havana is a city in Cuba.⁸ Moreover, it is beyond dispute that Havana, Cuba is a generally known geographic location. Accordingly, we find that primary significance of the term "Havana" is a well-known geographic location.

The addition of "Collection" to "Havana" does not diminish the primary geographic significance of the term "Havana" when the mark HAVANA COLLECTION is considered in its entirety. The mark HAVANA COLLECTION engenders the commercial impression of a grouping of items that share a connection with Havana, Cuba.

⁸ Applicant's Brief, p. 1 ("No issue with regard to the fact that Havana is a city in Cuba and that Cuba is associated with quality cigars.") and p. 4 ("Applicant does not deny, and has consistently recognized in this proceeding, that the primary significance of Havana is geographic.").

B. The origins of applicant's cigar accessories.

It is undisputed that applicant's cigar accessories do not originate in Havana, Cuba.

C. Goods/place association.

To establish a goods/place association, opposers may provide such evidence as excerpts from telephone directories, gazetteers, encyclopedias, dictionaries, the LexisNexis® database, or the results of an Internet search. See In re Loew's Theaters, Inc., 769 F.2d 764, 226 USPQ 865 (Fed. Cir. 1985) (finding evidence from a gazetteer and dictionary showing that tobacco is a crop produced and marketed in Durango. Mexico sufficient to establish a prima facie goods/place association); In re Compania de Licores Internacionales S.A., 102 USPQ2d at 1847. Opposers may also reference applicant's specimen displaying the use of its mark and any other evidence in the record that shows the context in which the mark is used. See In re Les Halles de Paris J.V., 334 F.3d 1371, 67 USPQ2d 1539, 1541 (Fed. Cir. 2003) ("[T]he goods-place association often requires little more than a showing that the consumer identifies the place as a known source of the product."). See also In re Save Venice New York Inc., 59 USPQ2d at 1783-84; In re Wada, 52 USPQ2d at 1541; In re Loew's Theatres, Inc., 226 USPQ at 868; In re Joint-Stock Co. "Baik." 80 USPQ2d 1305 (TTAB 2006) (BAIKALSKAYA held primarily geographically descriptive of vodka where the record showed that applicant is located in Irkutsk, Russia, a city near Lake Baikal and one of the main export regions of Russian vodka, applicant's vodka is made from water piped directly from Lake Baikal, Lake Baikal is the world's largest fresh water lake, and there are numerous references to "Baikal" in publications from various cities throughout the United States and in national publications); In re Broyhill Furniture Indus., Inc., 60 USPQ2d 1511, 1516-17 (TTAB 2001) (finding evidence that Tuscany, Italy is an important industrial center that produces a variety of products including furniture, and that several businesses advertise the sale of furniture from Tuscany on the Internet, was sufficient to establish a goods/place association between Tuscany and furniture, even though Tuscany is not famous for its furniture); In re Boyd Gaming Corp., 57 USPQ2d 1944 (TTAB 2000) (HAVANA RESORT & CASINO and ROYAL HAVANA RESORT & CASINO held primarily geographically deceptively misdescriptive of wearing apparel, beauty products and perfume that do not come from Havana, Cuba; goods/place association established where the record showed that Havana produces a variety of goods, including clothing and cosmetic items); In re Bacardi & Co. Ltd., 48 USPQ2d 1031, 1035 (TTAB 1997) (OLD HAVANA, HAVANA SELECT, HABANA CLASICO, HAVANA PRIMO, and HAVANA CLIPPER all held primarily geographically deceptively misdescriptive of rum that does not originate in Havana, Cuba; goods/place association established by evidence showing that Havana is a major city and rum is a significant product).

Applicant concedes that there is a goods/place association between "Havana" and cigars, but denies that there is a goods/place association between "Havana" and cigar accessories. 10

⁹ Applicant's Brief, p. 4 ("Applicant has not denied, at any time in this proceeding, the relevant public's association of Havana with cigars.").

The record is clear that Havana is associated with cigars. "Havana" is defined as "1. the capital of Cuba ... 2. a cigar made in Cuba." According to The New Encyclopaedia Britannica, Vol. 20, p. 534 (1988), "The quality products of the tobacco industry, notably Havana cigars, have brought Cuba world fame." 12

AN ILLUSTRATED ENCYCLOPEDIA OF POST-REVOLUTION HAVANA CIGARS, by Min Ron Nee, 13 p. 193 (2003) cited to a "Bulletin to Members Number 690" of the America Fair Trade Association (February 14, 1928) as the best definition of "Havana."

"Havana" as a trade name for cigars is with little doubt the oldest trade name in America as it has been used since the days of Columbus to describe tobacco grown on the Island of Cuba.

This historical fact was brought out by the Federal Trade Commission in its case against XXXXX Cigars, Inc., in which it was charged that the word "Havana" was used to describe tobacco not grown on the Island of Cuba and that

¹⁰ Applicant's Brief, p. 4 ("[T]here is no basis for even an *inference* that a 'reasonably prudent consumer' ... would make any association between [cigar accessories] and Havana."). (Emphasis in the original).

¹¹ Opposers' notice of reliance, RANDOM HOUSE WEBSTER'S DICTIONARY, p. 331 (4th ed. 2001). See also Opposers' notice of reliance THE RANDOM HOUSE DICTIONARY OF THE ENGLISH LANGUAGE (UNABRIDGED), p. 877 (2nd ed. 1987); WEBSTER'S NEW COLLEGIATE DICTIONARY, Vol. 5, p. 525 (1977); THE OXFORD ENGLISH DICTIONARY(1970); Merriam-Webster online (m-w.com); Online Etymology Dictionary (etymonline.com).

¹² Opposers' notice of reliance. *See also* Opposers' notice of reliance **THE WORLD BOOK ENCYCLOPEDIA**, Vol. 9, p. 87 (1992) ("Havana's most important manufacturing activity is the processing of tobacco.").

¹³ This reference work is cited in **PERELMAN'S POCKET CYCLOPEDIA OF HAVANA CIGARS**, p. 2 (3rd ed. 2005) as "a repository of information simply not available anywhere else." In July/August 2005 issue of *Cigar Aficionado* article "The New Geneva," the author referred to the reference work as "the definitive work on the subject." (Opposers' notice of reliance, Exhibit 3).

such use of the word was misleading to the purchasing public and constituted an unfair practice of the trade.

"The tobacco grown on the Island of Cuba has, since the days of Columbus, borne the name 'Havana', the tobacco no doubt having taken the name of the city of Havana where it was first manufactured into cigars from which such cigars and the tobacco have been exported to all parts of the world as the Havana tobacco and Havana cigars," says Henry Miller, the commission's attorney in his brief of the case.

... Havana became the cigar manufacturing center of the world and the tobacco and the cigars were marketed under the name Havana.

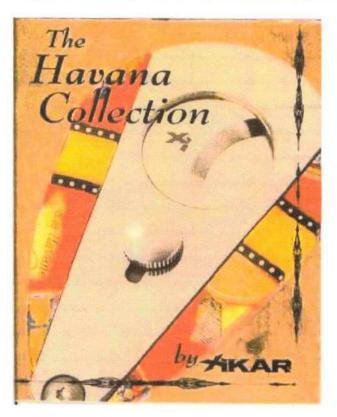
Ana López Garcia testified as follows:

- 12. Havana, Cuba, in particular, is world renowned for its production and export of high-quality, premium cigars. In fact, Havana is so closely associated with the famous Cuban cigars that Cuban cigars are commonly referred to as "Havanas" in English-speaking countries.
- 13. Havana, Cuba, in particular, is internationally renowned for the production of high quality humidors, which are both sold in Cuba and exported throughout the world. ... These humidors are frequently sold under the same marks as the famous Cuban cigar brands, including COHIBA, MONTECRISTO, ROMEO Y JULIETA, PARTAGAS and H. UPMANN. ...
- 15. Habanos S.A. also exports humidors made in Cuba for sale in countries throughout the world, including Europe, Latin America and the Caribbean, Asia, the Middle East and North America. Humidors made in Cuba are also special ordered from all over the world, including from Hong Kong, Japan, France, Spain, Italy, Germany, Belgium, Holland, Luxembourg, Libya and Mexico....

* * *

25. Cigar accessories, such as humidors, cigar cutters, cigar holders and cigar cases/travel humidors, have no function or use other than in connection with cigars.

As indicated above, we may look to applicant's specimen of use filed with its application to see the context in which applicant uses its mark. Applicant's specimen is a copy of a product insert. The cover of the insert is displayed below.



The term "a la Havane" appearing on the left-hand side of the cover means "in the style of Havana." ¹⁴

On the second page of the insert, applicant explains how a Parisian artist fashioned the cigar cutter handles from French maple and hand painted them.

It is a handmade piece of art that liberates the spirit of the quintessential cigar city, Havana.

¹⁴ "A la" means "according to; in the style of." THE RANDOM HOUSE DICTIONARY OF THE ENGLISH LANGUAGE (UNABRIDGED), p. 46 (2nd ed. 1987). The Board may take judicial notice of dictionary evidence. *University of Notre Dame du Lac v. J. C. Gourmet Food Imports Co.*, 213 USPQ 594, 596 (TTAB 1982), aff'd, 703 F.2d 1372, 217 USPQ 505 (Fed. Cir. 1983).

Finally, the insert includes a "Certificate of Authenticity" shown below.



There was very little direct evidence referencing Havana in connection with cigar accessories. The Summer 2008 issue of *Smoke* magazine featured an excerpt from an article about the Cuban cigars noting that at the Habanos Festival, Cuba's annual international cigar festival, "Gifted Cuban crafters fashioned high quality humidors in virtually every shape of the imagination: thatch-roof huts, storage barns, historical busts of persons – even a 1949 Chevy Fastback." Indeed, the Habanos Festival features an auction of humidors for charity. Indeed, the

The NationalCigarMuseum.com website has a webpage about "Cuban Chests." 17

¹⁵ Applicant's notice of reliance Exhibit H.

¹⁶ Lopez Dec. ¶¶17-18, Exhibits 6 − 8; Opposers' notice of reliance Exhibits 3,4, 6 and 9.

¹⁷ Opposers' notice of reliance Exhibit 9. The National Cigar Museum is a private endeavor "designed to tell the stories behind all those folks and all those brands, the processes and procedures, the battles and strategies, the schemes, the triumphs and failures."

When Europeans arrived in Cuba they discovered more than tobacco. Numerous fruits and veggies were added to the world's tables. Exotic hardwoods were none the less prized. The island soon became known for fine woodworking, much of which went into creating chests for the island's cigars so highly prized by the wealthy worldwide. All Cuban export cigar companies seem to have used fancy chests at one time or another.

Based on our review of the all the evidence in the record, including evidence not specifically referenced above, we find that there is a goods/place association between cigars and Havana. However, to the extent that there is a goods/place association between cigar accessories and Havana, it exists solely as a result of the fame of Havana in connection with cigars and because cigar accessories are related to cigars. Because Havana is so well-known for cigars, consumers seeing Havana used in connection with a product associated with cigars are likely to believe that there is a goods/place association between those products and Havana.

The Court of Appeals for the Federal Circuit specifically addressed whether the related goods test is applicable to geographic marks in *In re Save Venice N.Y.*, *Inc.*, 59 USPQ2d at 1784 (emphasis added):

In the modern marketing context, geographic regions that are noted for certain products or services actively promote and adapt their specialties to fit changing consumer needs. Thus we see no reason to believe that a modern merchant of Venice would not expand on the traditional Venetian products listed by the Board, to begin marketing products or services related to such goods. Similarly, from the consumer's perspective, we also find no reason to believe that the public strictly limits its association of a place to the geographic region's traditional products or services. Because we consider that consumers may assume that geographic regions, like other commercial actors, are likely to expand from their traditional goods or services into related goods or services, we hold that the

registrability of a geographic mark may be measured against the public's association of that region with both its traditional goods and any related goods or services that the public is likely to believe originate there. The essence of the test is whether consumers are likely to be confused by the source of the related goods identified by a distinctive geographic mark.

In its application of the "related goods" test, the Board found that many of applicant's goods "reflect product types, decorative themes and material compositions" associated with the city of Venice, Italy. As a result, the Board concluded that consumers would make a goods/place association between Venice, Italy and applicant's related goods. We agree with the Board that certain derivative "related goods" carrying a distinctive geographic mark would likely confuse consumers as to the source of the "related goods."

In other words, "we are really saying no more than that we must look to the evidence that has been presented about the probable reaction of purchasers to a particular geographic term when it is applied to particular goods." *In re House of Windsor, Inc.*, 221 USPQ 53, 57 (TTAB 1983), *recon. denied*, 223 USPQ 191 (TTAB 1984).¹⁸

D. <u>Materiality</u>.

To establish that a geographic term is primarily geographically deceptively misdescriptive under 15 U.S.C. § 1052(e)(3), opposers must show that the goods/place association made by a consumer is material to the consumer's decision to purchase those goods. *In re California Innovations Inc.*, 66 USPQ2d at 1856. In

¹⁸ House of Windsor was a refusal under Section 2(a) on the ground that the mark BAHIA for cigars is deceptive. However, as noted in footnote 1, the legal standards for determining whether, post-NAFTA, a mark is primarily geographically deceptively misdescriptive under § 2(e)(3) are the same as those applied in determining deceptiveness under Section 2(a).

other words, the issue is whether a known or possible misdescription in the mark would affect a substantial portion of the relevant consumers' decision to purchase the goods. As indicated above, we focus on "the probable reaction of purchasers to a particular geographic term when it is applied to particular goods." In re House of Windsor, Inc., 221 USPQ at 57.

If the evidence shows that the geographical area named in the mark is sufficiently known to lead purchasers to make a goods/place association, but the record does not show that the relevant goods are a principal product of that geographical area, the deception will most likely be found not to be material. If, however, there is evidence that the relevant goods, or related goods, are a principal product of the geographical area named by the mark, then the deception will most likely be found to be material. In re Compania de Licores Internacionales S.A., 102 USPQ2d at 1850.

The materiality element in cases involving goods generally will be satisfied if there is evidence showing that the place named in the mark is well known for the goods; or the goods are a principal product of the place named in the mark; or the goods are, or are related to, the traditional products of the place named in the mark, or are an expansion of the traditional products of the place named in the mark. See In re California Innovations Inc., 66 USPQ2d at 1857 ("[I]f there is evidence that goods like applicant's or goods related to applicant's are a principal product of the geographical area named by the mark, then the deception will most likely be found

material and the mark, therefore, deceptive." (quoting In re House of Windsor, 221 USPQ at 57)); In re Compania de Licores Internacionales S.A., 102 USPQ2d at 1850.

In Save Venice, the court affirmed the Board's refusal to register applicant's mark a logo containing the terms "THE VENICE COLLECTION" and "SAVE VENICE, INC." for a variety of goods in nine different international designated classes, including potpourri, tableware made of precious and nonprecious metals, lamps, clocks, art prints, paper products, residential furniture, dinnerware, glassware, bedding and carpets because of the "substantial evidence available showing that Venice, Italy is known for glass, lace, art objects, jewelry, cotton and silk textiles, printing and publishing." 59 USPQ2d at 1783. Although the court in Save Venice did not expressly address the materiality issue, because it was not officially recognized in this context, the court concluded that the public would mistakenly believe they were purchasing traditional Venetian products because "certain derivative 'related goods' carrying a distinctive geographic mark would likely confuse consumers as to the source of the 'related goods." Id. at 1784.

As indicated above, HAVANA is well-known, if not famous, for its cigars. Because cigar accessories have no purpose other than to be used in connection with cigars, it follows that cigar accessories are more desirable if there is some association with HAVANA. This conclusion is reinforced by applicant's specimen of use, a product insert featuring the term "a la Havane" and a certificate of authenticity. The product depicted on the cover of the product insert is a cigar cutter underneath the term "THE HAVANA COLLECTION." On the left-hand side

of the product insert is the term "a la Havane." The last page of the product insert is a "Certificate of Authenticity." At first blush, a consumer will believe that applicant is certifying that the product is from Havana because it is part of the "HAVANA COLLECTION." The commercial impression engendered by the mark HAVANA COLLECTION is that is part of a group of items from Havana. Only if the consumer reads the small print will he/she learn that applicant is certifying that the "HAVANA COLLECTION" is a hand-made limited production cutter. Under these circumstances, we find that applicant is trying to associate his product with the positive commercial impressions engendered by Havana in connection with cigars. We find that this evidence is sufficient to show that purchasers of applicant's cigar cutters would expect the goods to have their origin in Havana, Cuba. Thus, the use of the word HAVANA in connection with cigar accessories is a material factor in the purchasing decision.

Applicant's reliance on our decision in U.S. Playing Card Co. v. Harbro, LLC, 81 USPQ2d 1537 (TTAB 2006) is not well founded. In U.S. Playing Card Co. v. Harbro, LLC, the Board held that the mark VEGAS was not primarily geographically deceptively misdescriptive of playing cards that do not originate in Las Vegas, finding that the opposer failed to establish that the misleading goods/place association would be a material factor in the customer's decision to purchase the goods. The Board rejected opposers' argument that opposer had met the materiality factor by proving that there is a market for cancelled casino cards from Las Vegas casinos, stating that "[a]lthough the evidence demonstrates that

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consumers are interested in obtaining cards that were used in casinos, the evidence does not establish that they are interested in purchasing playing cards that were manufactured or used in Las Vegas." The Board also disagreed with opposers' contention that the goods/place association between Las Vegas and playing cards was so strong that materiality could be presumed. 81 USPQ2d at 1542.

E. Conclusion

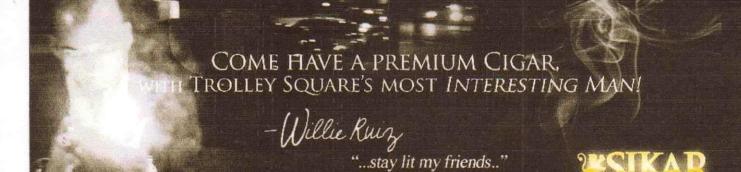
The primary significance of Havana is the capital city of Cuba, a geographic area that is generally known to American consumers. Because Havana is well known, if not famous, for cigars, consumers will make a goods/place association between cigar accessories and Havana. That is, consumers will mistakenly believe that applicant's cigar accessories originate in Havana when they do not. Lastly, because of the renown of Havana for cigars, the geographic origin of cigar accessories is a material factor for consumers in their decision to buy such products.

In view of the foregoing, opposers have established that the mark HAVANA COLLECTION for cigar accessories in geographically deceptively misdescriptive under Section 2(e)(3) of the Trademark Act.

<u>Decision</u>: The opposition is sustained and registration to applicant is refused.

EXHIBIT "51"

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wisberg d/b/a Bram Warren Company



OLIVA Event May 9th @ 6pm



The Oliva Cigar Company brings it's prestigious cigars to SIKAR Lounge! Join us for Great Food and Great Cigars!!

Click the image above

News

10/93 - La Flor Dominicana Cigar Event Posted on 18/3/2013

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Posted on 5/5/2013

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First Name

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mayan civilization and cigars

EXHIBIT "52"

SIGNII

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617

Xikar v. Debra Wiseberg d/b/a Bram Warren Company

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XIKAR | Mayan Collection

www.xikar.com/products/collections/mayan-collection/

XIKAR has designed an inspiring collection of cigar accessories that reveal the artistry of the Mayan civilization, one of the grandest in the world. XIKAR's Mayan ...



Tobacco and the Maya - Archaeology - About.com



archaeology.about.com> ... → Maya Civilization → Maya Religion ▼ by Kris Hirst - In 687 Google+ circles

Tobacco was an important part of the religious and secular life of the Maya civilization, particularly during the Classic Period.



History of the Cigar - Cigar Stix

www.cigarstix.com > Articles of Interest

Some scholars claim that the word **cigar** originated from sikar, the Mayan ... used by the Maya of Central America, and when the **Maya** civilization was broken up, ...



Cool facts about Mayan Civilization - "2012" Cigars (Honduras ... www.facebook.com/2012HonduranCigars/posts/383893601691038

Facebook is a social utility that connects people with friends and others who work, study and live around them. People use Facebook to keep up with friends, ...

Cigar Creations - Cigar History

www.cigarcreations.com/cigar_history.html >

It is known that the tobacco plant was used during the **Maya civilization** in Central ... The premium, hand-rolled **cigar** as we know it today has changed little from ...

mayan civilization, Famous Smoke Shop Cigars and Tobacco ...

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TED Case Study: Cigar Trade

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The world's finest tobaccos and **cigars** have long been produced on an island off ... The **Mayan civilization** in Central America smoked the leaves and when the ...

Mayan X by Xikar | The Cigar Nut

www.thecigarnut.com/mayan-x-by-xikar/comment-page-1/?wpmp... >

Written and Video Cigar Reviews, Cigar News and Cigar Information. ... that honors the Ancient Mayan Civilization, the original source of our beloved cigars.

The History of the Cigar Humidor | eHow

www.ehow.com > Hobbies, Games & Toys *

As a collectible and functional ${\bf cigar}$ accessory, ${\bf cigar}$ humidors protect the taste ... The ${\bf Mayan}$ ${\bf civilization}$ in Central America smoked the leaves and, after the ...

Xikar 3D Mayan Stainless Steel Cigar Cutter: CigarCutters.com www.cigarcutters.com/xi302my3d.html **

Equally impressive is the design of this Xikar cigar cutter. Inspired by the great artwork of the Mayan civilization, this cutter features a dimension design on its ...

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Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 WEB IMAGES VIDEOS MXikarvv. Debra Wiseberg d/b/a Bram Warren Company

Bing mayan civilization and cigars **37,500 RESULTS** XIKAR | Mayan Collection Norton XIKAR has a strong affiliation with the Mayan culture which is illustrated in this ... it is a warm welcome to any cigar. Mayan Cloisonné Triple Flame is .. The Maya and Tobacco - Cigars for Dummies - Cigar Smoker ... Famous Cuban Cigars Factories; The Maya and Tobacco; Cuban Embargo ... I feel proud that this great civilization we never had the honour to observe and live in ... Images of mayan civilization and cigars White W Altadis Mayan Heritage Cigars in Humidor Cigars - ... Norton Altadis Mayan Heritage Cigars in ... each Altadis Mayan Heritage Humidor is a one of a kind work of art celebrating the rich history and culture of the Mayan Mayan Doomsday Eve Party, December 20th | Chesapeake Cigar ... Mayan culture and cigars are intertwined like peanut butter and jelly. So, there's no more fitting way to celebrate the end of the Mayan calendar than to smoke a . Xikar 3D Mayan Stainless Steel Cigar Cutter: Elighters.com www.elighters.com > ... > Xikar Clgar Cutters > Shop By Brand > Xik Xikar 3D Mayan Stainless Steel Cigar Cutter Xikar Cigar Cutters Comfortable to hold and use, ... Inspired by the great artwork of the Mayan civilization, . XIKAR | Xi3 3D Mayan Cutter Norton XIKAR's Iconic Perfection of Mayan Civilization is Rediscovered in 3D ... high quality and timeless luxury for serious cigar enthusiasts. Tobacco and the Maya - Nicotine Use by Classic Period Mayan ... Norton Tobacco was an important part of the religious and secular life of the Maya civilization ... Medical and Health Benefits of Tobacco and Cigars; World No ... Little Cigar Factory: Cigar, Cigars, Buy Cigars, Humidors, Cigar ... ctory.com/Cigar History.htm Little Cigar Factory: Cigar, Cigars, Buy Cigars, Cigar rolling, ... When the Maya civilization fell, clans moved to North and South America. In ... Related searches for mayan civilization and cigars Mayan Civilization Timeline Maya Civilization PowerPoint **Ancient Mayan Civilization Facts** Mayan Civilization 2012 Mayan Gods **End of Mayan Civilization** Ancient Maya Civilization Maya Culture Your results are personalized. Learn more

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HC Series Cigars

Introducing the Habano²

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Jesus Fuego: Cuban Heritage, History

Jesus Fuego & the Story of El Corojo, Vuelta Abajo Region, Pinar del Rio, Cuba

Travel across thousands of rugged farmland acres Southwest of Havana and you'll find the cradle of the world's most sought after tobacco. El Corojo was the site where in 1876, Jesus Fuego's ancestors planted the first tobacco seeds on one of only four small family farms, which they named Corojo #1.

Just under a century later, Jesus was born and raised on Corojo #1. He has continued his ancestor's dedication to growing the world's finest



tobacco and creating unforgettable cigars. Jesus mastered the art of growing harvesting, fermenting, and blending tobacco for Cuba's top companies. He earned his Master's Degree in Post-Harvest Agronomy at the University of Havana, where he later spread his knowledge to other lovers of the leaf.

Jesus' heritage and experience gained from Cuba's best tobacco growers and cigar makers are unmatched. Fortunately in the 1990's Jesus left Cuba to share his talent and love for cigars with the rest of the world.

http://hc.xikar.com/

We now invite you to share in a special collection of cigars, 5 generations in the making!



XIKAR's Treasure Hunt: Habano²

Travel creates experiences, and we love to travel!

As part of building XIKAR, we have made many friends around the world who are brilliant tobacco producers, expert blenders and artisan cigar rollers. Our "duties" have led us to exotic countries and to smoke great cigars...work, work! We sometimes find treasure on our journey; and sometimes that treasure is planted, not buried, in the ground. These treasures include blends that have not yet been introduced, or stocks of tobacco the producer was saving for a special occasion. We bring back the best to enjoy ourselves, and we want to share that treasure with you!

We unearthed this treasure on a recent trip, and it knocked our socks off! We offer it to you today as our "Habano²" blend. Think of it as a souvenir from our travels, but much more enjoyable than a t-shirt!

Enjoy the Treasure of Life's experiences;

XIKAR for Life!

Scott Alasberger

Cuban Heritage, History Jesus Fuego & the Story of El Corojo, Vuelta Abajo Region, Pinar del Rio, Cuba

Travel across thousands of rugged farmland acres Southwest of Havana and you'll find the cradle of the world's most sought after tobacco, El Corojo. Named for the two palm trees that served as a gateway to the magical region, El Corojo was

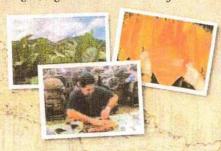
the site where in 1876, Jesus Fuego's ancestors planted the first tobacco seeds on one of only four small family farms, which they named Corojo #1.



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We now invite you to share in a special collection of cigars, 5 generations in the making!



New Generations Making Timeless Creations XIKAR & Jesus Fuego

As founders of XIKAR, the cigar industry's leading accessory company, we are true lovers of the leaf. We also have the rare and fortunate opportunity to personally know the top cigar makers in the world.

When the time came to share our love for cigars and introduce our own unforgettable cigar line, all roads led to our friend and blending partner, master blender Jesus Fuego. Jesus' inspiring story of Cuban heritage and liberation is surpassed only by his passion for creating cigars worthy of his ancestors and of the most special moments in life – memories in the making.

Together, we now offer you the unforgettable cigar collection of our dreams; the result of our dedication to unmatched quality and taste.

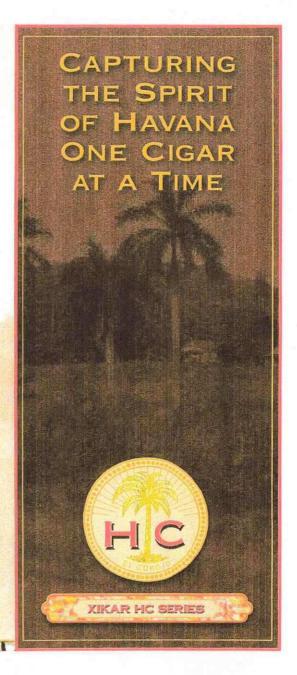
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J. Truego



XIKAR, Inc. www.xikar.com - 888-266-1193





Connecticut Shade

Wrapper: Connecticut Shade - Ecuador

Binder: Sumatra Filler: Costa Rica

Mexico Nicaragua

Lonsdale 6 x 46 Robusto 5 x 50 Belicoso 6 x 52 61/2 x 52



Criollo

Wrapper: Shade Grown Criollo - Nicaragua Binder: Sun Grown Corojo - Nicaragua Filler:

Honduras Nicaragua

Lonsdale 6 x 46 Robusto 5 x 50 Belicoso 6 x 54 6 1/2 x 52 Toro



Habano Colorado

Habano Colorado -Wrapper:

Jalapa Valley Binder: Esteli

Filler: Costa Rica Jalapa Valley Honduras

6 x 46 Lonsdale Robusto 5 x 50 6x54 Belicoso 61/2 x 52 Toro Churchill 7 x 48 Petite Corona 4 1/2 x 44



HC Series Connecticut Shade

A cigar 5 years in the making. Jesus Fuego & XIKAR have been working to perfect this blend. Made with Ecuadorian Connecticut Shade, this blend proves to be slightly stronger than the average Connecticut Shade cigar, while staying true to the character of a Connecticut!

HC Series Criollo

TOTAL PROPERTY OF THE PARTY OF

A perfectly balanced, medium-bodied cigar. The dark, attractive Shade Grown Criollo wrapper aged 4 years is impeccable. This tasty cigar masterfully balances leathery flavors with pleasant tea intonations and caramel notes!

HC Series Habano Colorado

Wrapped in a beautiful cocoa colored wrapper, the Habano Colorado is a smooth, rich tasting cigar with chocolate notes. The well aged tobacco makes for an interesting medium to full bodied cigar that is moderately strong with just a hint of sweetness!

EXHIBIT "55" (5 Pages including Cover Sheet) Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

Documents produced by the Opposer



Cuban Heritage, History

Jesus Fuego & the Story of El Corojo, Vuelta Abajo Region, Pinar del Rio, Cuba

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We now invite you to share in a special collection of cigars, 5 generations in the making!



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Together, we now offer you the unforgettable cigar collection of our dreams; the result of our dedication to unmatched quality and taste.

APPAREL AND MERCHANDISE



HC Tabletop Lighter Black

Item #543BK

Item #077



HC Tabletop Lighter Red

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Havana Rhythms Music From the Heart of Cuba



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Item #871BK





CAPTURING THE SPIRIT OF HAVANA ONE CIGAR AT A TIME









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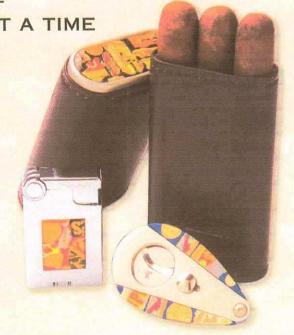






CAPTURING THE SPIRIT OF
HAVANA ONE CIGAR AT A TIME

The spirit of Havana's historically rich cigar heritage demands to be free. XIKAR is proud to bring that spirit to its signature line of cigar accessories with the Havana Collection. We have fused the classic, bold symbols of Cuban cigar bands with the modern evolution of 21st century cigar accessories to create a truly oneof-a kind series. The Xi3 cigar cutter maintains handmade, decoupage art handles that made it an instant classic. We have broadened accessibility of the handmade beauty to our renowned EX windproof chrome lighter and Envoy 3 cigar case with the finest reproduction art available today. Experience the timeless beauty of the quintessential cigar city, Havana. All items sold separately.



THE EXOTIC WOODS COLLECTION BY XIKAR

By adorning the classic Xi3 cutter, the Envoy leather cigar case, and an exclusively produced humidor with the finest exotic woods, we have created a stunning collection of cigar accessories fit for the most discerning aficionado. Elegant Amboina Burl, sleek Bocote & striking Cocobolo woods compliment XIKAR's signature craftsmanship, utility and eye-catching design of these cigar essentials. All items sold separately.





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Smell a freshly cut cigar
as you snap your XIKAR
cutter into its locked position.
The spring-loaded, double
guillotine design gives the cutter
feel and performance like no other.
A button release mechanism snaps the
two super-hard stainless steel blades
into the open position.

Amazing Feel

- Comfortable
 Unique ergonomic design fits easily in your palm
- Powerful
 Tear-drop shape provides maximum grip strength

Highest Performance

- State-of-the-Art
 Super-sharp double guillotine blades
 scissor a perfect cut
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 Finest aluminum and stainless steel, engineered and hand assembled for durability

Unmatched Style

- Unique
 Modern design matches the high-tech performance
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 One-of-a-kind cutter others can't
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Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617

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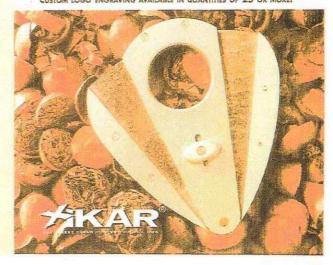


EXHIBIT "57"

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

Xikar, Inc.

Page 1 of 1







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Smell a freshly cut cigar
as you snap your XIKAR®
cutter into its locked position.
The spring-loaded, double
guillotine design gives the cutter
feel and performance like no other.
A button release mechanism snaps the
two super-hard stainless steel blades
into the open position.

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Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company



In a world of fast food and one-size-fits-all sensibilities, how often does something feel made especially for you? The "Made section celebrates those items that are created with such high quality of hand workmanship and degree of customization become individual to you. In each issue, our editors will endeavor to bring you special things from anywhere on the globe. them solely on the basis of outstanding quality. Our goal is to give you guidance on the best of everything.

ALL TOOLS IN ONE—BAR10DER

You're in some urban wildlife venue, when someone desperately needs an Old-Fashioned. The call goes out: "Is there a mixologist in the house." You whip out your trusty Barnoder-the Swiss Army-Knife of bar tools (10 tools in one)-and tear into action: crushing sugar and bitters with the muddling tool, measuring out Bourbon with the jigger attachment, slicing an orange with its blade and mixing it with the stirrer. But that's not all, there's a reamer, channel knife, zester, strainer, corkscrew and even a bottle opener for the mix averse. thebarroder.com

2 UNDER COVER—SAXX UNDERWEAR CO.

It's every man's dilemma: boxers or briefs? Boxers give plenty of room to the essentials, but can be too billowing under tight trousers. Tighty whities are, of course, brief, but can be too snug on the boys. What if there were a hybrid that hugged the body, while allowing the package plenty of room? Well, there is: Saxx Underwear. An ergonomically designed pouch, with articulated panels, supports your package in separated comfort while the rest of the Spandex garment hugs your waist and thighs, so there's no uncomfortable friction even as you work out. saxxunderwear.com

3 DRIVING YOUR CICAR—BRAM WARREN

The problem with smoking and driving is that most car ashtrays are suited for diminutive cigarette butts and haven't the payload nor the inclination to accommodate a proud full-size cigar. But autos usually come flush with drink holders, and the genius of the Bram Warren Cicar ashtray is that it fits into one, providing capacious ash storage and the perfect notch for resting your cigar as well. Comes in various colors and includes a storage bag. bramwarren.com

4 MAKE A CIGAR BOX GUITAR—FOX CHAPEL PUBLI

Out of space and uses for your empty cigar boxes? Fox Chapel has your all-in-one guide to a musical solution. Cigar Box Guitai with photo-based, how-to guides on crafting a six-string guita any old stogie box. Choose from simple models or add frets electric pick-ups. A small bonus is that author David Sutton and mile and shares some famous examples from a few morestrummers. foxchapelpublishing.com

5 NOT SO BLUE JEANS—34 HERITAGE

Denim pants are a style staple that are at once emblema but international in reach. The problem with the comfort trousers has always been sameness. A new brand. that with a palette of color choices and a range of four file and leg shape for look and feel. A proprietary 10-0unce cotton with 2.5 percent lycra enjoys a delicate wash process. 34heritage.com

6 SOPHISTICATED SUDS—LES CONFIDENTS

In the mood to serve a complex craft beer at your your sudsy adventure classy with the Les Confider from French cristallerie Saint-Louis. The company crystal masterpieces since 1586, commissioned six and traditional flute and chope glass shapes, popular in the The exquisite collection is sold individually as well as chope and one flute) and six (six chopes or six flutes), and

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Xikar Portable Cigar Ash Can Price: \$17.95



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New from Xikar! Design and function meets consumer need in this perfect ashtray for the car, rv, golf cart, boat, back-pack, campsite, beach, garage, briefcase, etc. Portable, quality construction, and very useful.

- Fits any car's standard cup holder
- · Perfect for holding cigar and ashes
- Screwable lid keeps the ashes and aromas contained
- 4" tall, 2.75" round,
- · For smokers on the go!!





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The 25 Coolest Ashtrays You Can Buy Right Now

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BY SAM LOCKHART [FEB 22, 2013 [9:12 AM] FERMALINK

THE 25 COOLEST ASHTRAYS
YOU CAN BUY RIGHT NOW

Although in recent years smoking has become frowned upon, since it kills you (or whatever the doctors say), ashtrays have somewhat remained a symbol of high class. Cutting edge, modern ashtrays are still being designed by artists, while vintage ashtrays have become a collector's item, especially pieces from the '50s, '60s and '70s, when cigarettes were in their prime. Even if you don't smoke, an ashtray can be used as a decoration or a convenient holder for your thumb tacks.

Whatever you want to use it for, even if it's to put your cigarettes in, here are The 25 Coolest Ashtrays You Can Buy Right Now. Your guests will definitely be impressed if you whip out a smoke and start to ash in one of these bad boys. Enjoy.

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19. Bronze Merlot

Designer: Bram Warren

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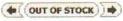
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Designer line cigar ashtray with match striker in bronze merlot



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Perfect smoking accessory for the cigar enthusiast.

This big ashtray provides all the right features for cigar lovers with a big deep ashwell, large wide rests, and a built-in match holder with striker.

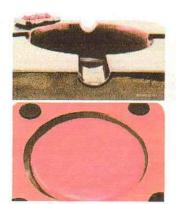
Made by hand and signed by American artist Bram Warren. The pottery is glazed metallic bronze with a deep burgundy red center.

The unit weighs 5 lbs and has four rubber pads on the base to prevent skidding and surface scrapes. Stays put and won't tip. The corners are cut to help prevent sharp edge chips. Measures 9" square. The ash receiving bowl is 2" deep. The four wide cigar troughs are 1.5" long and can rest the largest ring-gauge cigars securely and comfortably.

Deep 2" ashwell receives the ashes and prevents them from scattering. The match-holder's exterior provides a striking surface. Comes with stick matches included.

Each Bram Warren pottery ashtray is brand new, hand cast and hand-glazed in America. No two are exactly alike in decor due to the hand-made process. Decor will vary slightly. Available in multiples and different color schemes. Click here to view available colors.

Click on images below to enlarge, use your Back Arrow to return to this page.







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EXHIBIT "64" (2 Pages)

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

THE FIVE BEST CIGAR-RELATED FATHER'S DAY GIFTS

Posted by: Matthew Rosen June 10, 2005 in Uncategorized

According to a recent study by the internet cigar retailer WhatsKnotToLove, Father's Day — that shameless day of the year when wives, daughters and sons have to publicly humiliate themselves in a quest for a gift they know will go unappreciated — has become a national epidemic. More than sixty million American Fathers are affected by a disappointing Father's Day, and it is estimated that half of those try to conceal the fact with crooked smiles and unintelligible mumbles that invoke the Need a Moment? Twix Bar commercial. Fortunately, the disease rarely causes permanent disability — if the syndrome is identified early and giftgivers comply with at least one of the five following treatment strategies.

#5. Buy Him a Cigar Cutter (Dad Would Really Like to Stop Clipping Cigars with his Teeth):

A fine fellow by the name of Kurt Van Keppel realized in 1994 that there were not many well-conceived alternatives to removing cigar tips with your teeth. Cheap cigar cutters were wobbly, dull and boring to look at, and expensive cigar cutters were - well, wobbly, dull and boring to look at. So Kurt got together with his friend Scott to make a cigar cutter that was sturdy, long-lasting, could woo a date with its good looks, and was sharp enough to impress the Spanish Inquisition's guillotine squad. The result was the Xikar cigar cutter, now a market leader in the industry.

#4. Buy Him a Desktop Humidor (Dad's Tired of Storing His Cigars in a Roll of Socks):

It's a fact; most of us don't need a hutch-style humidor the size of a wardrobe that includes a gateway to Narnia. We just want the cigars we have to last and maybe something sleek for our desk that will impress our boss. Good quality desktop humidors are easier to find than ever, and you can purchase beautifully polished wood humidors that include a box of cigars as an added bonus. There is a great desktop humidor made by Caribe that includes fifty premium long filler San Marco cigars. If any gift could be a hole in one, this is it.

#3. Buy Him a Cool Ashtray So He Can Stop Using that One He Stole From T A ar:

Today is the first day of the rest of your life. Why? Because cigar ashtrays are no longer black and white. They have style, personality and class. Thanks to the innovative thinking of noted South Beach artist and ceramist, Bram Warren, cigar ashtrays are so cool they can be used for interior design. Working with styles like "River Rock", "Celadon Crystal" and "Volcanic Ash", Warren combines colors including steel blue, sage, birch, merlot and bronze to make the most distinctive cigar ashtrays available. The only hard part is deciding which one to get.

#2. Stop Obsessing Over Which Cigars to Buy, Just Go For the Cigar Lover's Diary:

This is a no-brainer. Seven cigars that include a Don Diego Aniversario, an H. Upmann Vintage Cameroon, a Montecristo White, an Onyx Reserve, a Romeo Julieta Reserva Real, a Romeo Julieta Reserva Maduro, and a Trinidad all packaged within a diary-like book. Easy to wrap, easy to find and 0% chance of being a dud. If you close your eyes, you can see the smile wrapping around his face.

#1. Forget the Surprise Vacation, Give Him an S.T. Dupont Lighter:

You know that car commercial that explains the feeling of driving a traction controlled vehicle through the

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Only by employing one of the above treatment strategies can America hope to reverse the epidemic of the disappointing Father's Day that is sweeping wildly across the nation. Now that you are equipped with this arsenal, you can freely explore the joy of the occasion with your favorite loved one.

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cigar ashtrays

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Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

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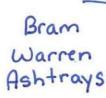
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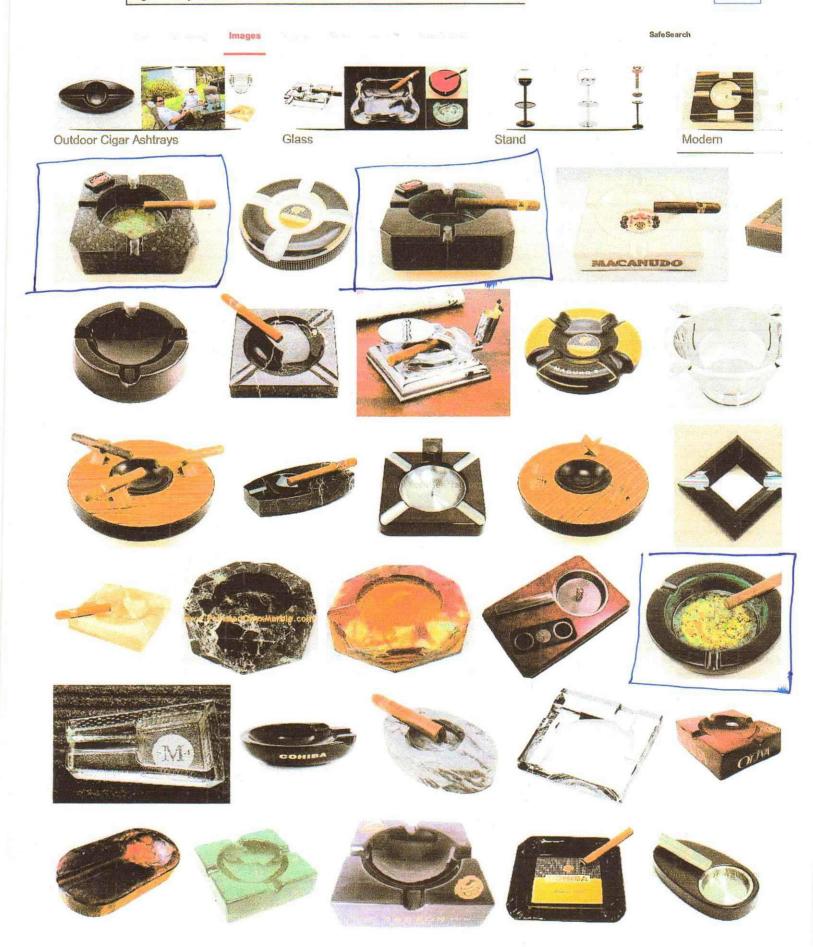


















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Exclusive Handmade Ashtray by Bram Warren Studios

Passion Ashtrays are handmade, ceramic pieces made exclusively by Bram Warren Studios. Each 1-finger ashtray is a stunning, hand-signed, limited edition piece of art that has been individually cast and meticulously hand glazed. A great gift for a fellow cigar enthusiast or a great addition to your study or desk, the Passion Collection is a harmonious display of art and functionality. This incredible collection of ashtrays was featured at the 2004 RTDA in Las Vegas, and became an instant hit. Although our entire order will take a long time to fill, as each piece takes a long time to make, we are receiving small shipments on a monthly basis. So get'em while you can, they may not be available for quite some time! Due to the nature of this handmade product, each piece will vary slightly.

This auction is for the green ashtray.

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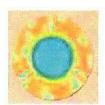


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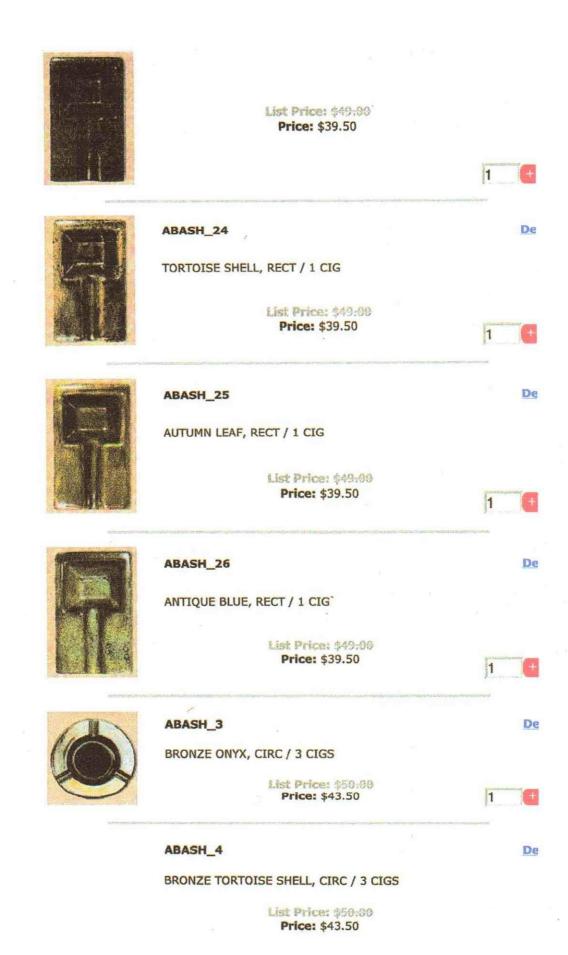
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Top » Cigar Ashtrays » The Designs of Bram Warren Ashtrays

The Designs of Bram Warren Ashtrays View Our Online Store: Ashtrays

Ashton

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- Accessories
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- Chrome
- La Aroma De
- Tatuaie
- · Car
- · Carlos Torano
- Don Line

Don Pepin

Craftsmans

Bench

Lotus

· CAO

The functional and decorative Bram Warren ashtrays

are a true hit among cigar aficionados. The various ceramic styles can add to your home and office décor with flair and prestige, because there is one to fit nearly any individuals taste and

style.



The Bram Warren ashtray is individually hand crafted. That means each one is cast, glazed, and fired by hand, with no two looking exactly the same. This also means that the design will vary slightly for each ashtray. They are made in the United States of America and are very popular because of their uniqueness. There are four different varieties in this collection, and they are as follows:

Conference Triple Deep Conference Executive The Well

These individualistic inspired ashtrays are a medley of creativity. Each one will harness a different color scheme, and they also have a reputation for excellence. Each piece of functional art is very sophisticated, and they have been styled to work harmoniously with any interior design motif and color scheme. They will enhance any room in your home or office. These lovely and elite ashtrays can be found in multi-million dollar homes and are nothing less than stunning. This makes them exclusive pieces, yet they are still incredibly affordable to use as a gift idea. What a great piece to give to a buddy or a fellow colleague. It will be a real treat for those cigar smokers who have everything.

Bram Warren ashtrays are 9" square, and are formed pieces with cut corners. The bowl dimensions are 6" x 2" in diameter. These impressive stogle holders have a large capacity for ashes and debris. The wide trough can hold even the largest ring gauge cigars firmly and securely. The Well is an added compliment to any cigar smoker as they have a separate ceramic container adomed in the same motif. It fits superbly on the top corner, and holds approximately 30 wooden matches, which are included. You can remove the "strike anywhere" match and light it on the unglazed bottom surface. Four felt bumpers appear on the base, which prevents it from sliding. The base of each individual bowl carries the company's insignia as well. There is no other design like it on the market. The Well by Bram Warren ashtrays is definitely a cigar smokers dream.

The varieties of colors and shades for each line is astounding, to say the least.

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Bram Warren Ashtray Online Ashtrays For Sale

Because their approach is to make each beautiful bowl different, this makes this

specific brand very popular and in definite demand among cigar enthusiasts everywhere. Many cigar lovers swear by them. Their prestige and their being one-of-

They are great for alone time, when you just want to sit and reminisce while

smoking your stogie to relax and get away from life's issues. They are also

just has a good time. A Bram Warren ashtray is so much more than just your

wonderful for those moments when you have your cigar buddies over and everyone

normal ashtray. They are a fine work of art made by hand, and just as different as

a-kind is why they hold such popularity.

people are, there are no two just alike.

Back to main topic: Cigar Ashtrays

We Have Ashton Quality Cigar Ashtrays For Sale

Prometheus Ashtrays Are An Elegant Work Of Art

The Beauty Of Davidoff Porcelain Cigar Ashtrays

Cigar Ashtrays Vs Regular Ashtray

The Beauty of CAO Cigar Ashtrays

The Birth Of Stinky Cigar Ashtrays

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http://www.seriouscigars.com/designs-bram-warren-ashtrays-a-295.html

IMAGES

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

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Bing havana club ashtray SafeSearch: Moderate 309 RESULTS Size Layout People Havana Club Bacardi Club Havana Club Havana Havana Club Club Havana Havana Club Havana Club City Pernod Ricard Atlanta Emirates Palace Rum For Sale Baltimore HAVANA CLUB ID : HAVANA (11) Harma Gul Ren



Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617

Xikar v. Debra Wiseberg d/b/a-Bram Warren Company plug Cart

Search for

0 Products | Total of 0.00 Euro

Go to Shopping Cart

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Cigaraccesories Ashtrays Havana Club Ashtray El Socio

Havana Club Ashtray El Socio

8 Different alternatives 0 Ratings



ame	Price/Value Quality Price		
	Blau (heller als auf dem Bild - eher pastell)	Order:	€ 89.00
CLUB HAVANA	0. Ratings	0 V x 1 Stk.	
	Bordeaux	Order:	€ 89.00
O Ratings	0 Ratings	0 ∨ x 1 Stk.	
	Gelb	Order:	€ 89.00
Q Ratings	0 Ratings	0 🗸 x 1 Stk.	
	Grün (ähnlich dem blauen - eher pastell)	Order:	€ 89.00
	0 Ratings	0 V x 1 Stk.	
	Weiss	Order:	€ 89.00
A marriage and interest	O Ratings	0 ∨ x 1 Stk.	

^{*)} All prices including 19% value added tax and all other legally prescribed taxes. The prices do not include shipping-costs. The old price is the former price on this online-store.

^{**)} The displayed box-price includes 3% box-discount.

More Havana Club items







Havana Club Ascher Tricontinental 9 variants



Havana Club Tinaja -Jarre a cigare -Humidor 9 variants



Havana Club Ascher - El Chico 12 variants



Havana Club Santa Cruz Ascher 9 variants

from € 79.00

€ 49.00

from € 129.00

€ 39.50

€ 29.95

See all 8 Havana Club products

Contact

CIGARWORLD

Project of the Tabac Benden GmbH Lounge & Delivery Department Burghofstraße 28 40223 Düsseldorf

Telephone:

Delivery department: +49 (0)211 1576 310 Lounge: +49 (0)211 1593 985 Fax: +49 (0)211 1576 314 e-mail: info@cigarworld.de

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New In

Perdomo Fresco MADURO Robusto

Perdomo Fresco MADURO Toro

Perdomo Fresco MADURO Torpedo

Perdomo Fresco MADURO Churchill

Perdomo Fresco MADURO Gigante

Cruzero De Panama Cigarillos (50er Holzschachtel)

Casa de Alegria Edición Limitada Chicos Rico

PREMIUM

Casa de Alegria Edición Limitada Chicos Suave PREMIUM

Casa de Alegria Edición Limitada Chicos Suave Medium

Casa de Alegria Edición Limitada Chicos Rico Medium

Nat Sherman Suave Nats Cigarillos (20er Packung)
Baiboa Vintage 2001 Longfiller Cigarillos (20er
Packung)

Balboa Vintage 2001 Longfiller Cigarillos (50er Packung)

Balboa Vintage 2001 20er in Chrometui Balboa Vintage 2001 Longfiller Cigarillos (20er

Chrometui)

Bestseller

Colibri Universalgas 250ml (011091)

Acrylpolymere Kristalle 5g

Classic Doppelklingen-Cutter schwarz 591001

Adorini Haarhygrometer A 129 (klein)

Adorini Cutter Doppelklinge Oval A 104

Tabac Benden Cigarworld Streichhölzer

Angelo Cigarrenbohrer 50102 silber

Bóveda Humidipak 72 % RH (Ein Beutel)

Adorini Haarhygrometer A 130 (groß)

Habanos Ascher (711010) Schwarz

Cigarrentubos - Zigarrenröhre Habanos Tubo

Cigardoctor Deckblattkleber El Torcedor

Adorini Chianti (MEDIUM) Deluxe

HBS & RH Beads für 75 Zigarren (70% RH)

Adorini Humidor Torino Deluxe

Protection of minors

Of course we only sell to adults with an age of 18 and above. This will be verified!



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EXHIBIT "71"

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617

Products

Warranty Xikar v. Debra Wiseberg d/b/a Bram Warren Company

My Car



Havana Collection Celebration Ashtrays

Celebrate the cigar lifestyle with your friends. These festive ashtrays are sure to be a hit at any cigar herf.

NEW
^ HC Celebration
Ashtray: Black



NEW
^ HC Celebration
Ashtray : Yellow



NEW
^ HC Celebration
Ashtray : Red

^ Click image for close-up view



Finished in glazed black, red, or yellow ceramic and designed by our cigar smoking experts, this ashtray is perfect for any celebration.

Fits 6 cigars.

SKU	Title	Price	Cart
428HCBK	XIKAR HC Celebration Ashtray Ceramic Black	\$29.99	Add to cart >>
428HCRD	XIKAR HC Celebration Ashtray Ceramic Red	\$29.99	Add to cart >>
428HCYL	XIKAR HC Celebration Ashtray Ceramic Yellow	\$29.99	Add to cart >>

Accessories

Ceramic Ashtrays Crystal Ashtrays Ashtray Can Hats Shirts

Stingray Sheath

Collections:

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Havana Collection
Liga Privada
Mayan Collection
Room101 Collection

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EXHIBIT "72 (Pages)

Submitted by Debra Wiseberg, Applicant in Opposition No. 91209617 Xikar v. Debra Wiseberg d/b/a Bram Warren Company

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial No. 85/652,496,		
filed June 14, 2012, CICAR		
XIKAR, INC.,)	
)	
Opposer,)	
**)	
V.)	Opposition No. 91209617
)	
DEBRA WISEBERG D/B/A BRAM)	
WARREN COMPANY,)	
)	
Applicant.)	
T)	
	/	

OPPOSER'S RESPONSES TO APPLICANT AND COUNTERCLAIM PLAINTIFF'S REQUEST FOR ADMISSIONS

Pursuant to Fed. R. Civ. P. 36 and 37 C.F.R. § 2.120, Opposer. Xikar, Inc., hereby responds to Applicant's Requests for Admissions.

INSTRUCTIONS

- In answering these requests for admissions, admit the matter of which an admission is requested; deny the matter; or state in detail the reasons why you cannot truthfully admit or deny the matter.
- 2. A denial shall fairly meet the substance of the requested admission, and when good faith requires that you qualify an answer or deny only part of the matter of which an admission is requested, you shall specify so much of it as is true and qualify or deny the remainder.
- Do not give lack of information or knowledge as a reason for failure to admit or deny a request for admission unless you so state that you have made reasonable

Do you admit that the document as labeled by the Opposer as XIKAR-000207 given to the Applicant by the Opposer in response to the Applicant's First Set of Interrogatories, attached to this document as "Document 13" is a genuine true and correct copy of such document.

Response:

Opposer objects on the ground that this request seeks irrelevant information and information not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 17:

Do you admit that the document as labeled by the Opposer as XIKAR-000209 given to the Applicant by the Opposer in response to the Applicant's First Set of Interrogatories, attached to this document as "Document 14" is a genuine true and correct copy of such document.

Response:

Opposer objects on the ground that this request seeks irrelevant information and information not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 18:

Do you admit that the document as labeled by the Opposer as XIKAR-000219 given to the Applicant by the Opposer in response to the Applicant's First Set of Interrogatories, attached to this document as "Document 15" is a genuine true and correct copy of such document.

Response:

Opposer objects on the ground that this request seeks irrelevant information and information not reasonably calculated to lead to the discovery of admissible evidence.

Opposer objects on the ground that this request seeks irrelevant information and information not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 28:

Do you admit that the document as labeled by the Opposer as XIKAR-000431 given to the Applicant by the Opposer in response to the Applicant's First Set of Interrogatories, attached to this document as "Document 25" is a genuine true and correct copy of such document. Response:

Opposer objects on the ground that this request seeks irrelevant information and information not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 29:

Do you admit that the document as labeled by the Opposer as XIKAR-000432 given to the Applicant by the Opposer in response to the Applicant's First Set of Interrogatories, attached to this document as "Document 26" is a genuine true and correct copy of such document.

Response:

Opposer objects on the ground that this request seeks irrelevant information and information not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, admit.

REQUEST NO. 30:

Do you admit that the document as labeled by the Opposer as XIKAR-000437 given to the Applicant by the Opposer in response to the Applicant's First Set of Interrogatories, attached

Applicant by the Opposer in response to the Applicant's First Set of Interrogatories, attached to this document as "Document 30" is a genuine true and correct copy of such document.

Response:

Opposer objects on the ground that this request seeks irrelevant information and information not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 34:

Do you admit that the document as labeled by the Opposer as XIKAR-000446 given to the Applicant by the Opposer in response to the Applicant's First Set of Interrogatories, attached to this document as "Document 31" is a genuine true and correct copy of such document. Response:

Opposer objects on the ground that this request seeks irrelevant information and information not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 35:

Do you admit that the document as labeled by the Opposer as XIKAR-000447 given to the Applicant by the Opposer in response to the Applicant's First Set of Interrogatories, attached to this document as "Document 32" is a genuine true and correct copy of such document. Response:

Opposer objects on the ground that this request seeks irrelevant information and information not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 36:

Do you admit that the document as labeled by the Opposer as XIKAR-000449 given to the Applicant by the Opposer in response to the Applicant's First Set of Interrogatories, attached to this document as "Document 33" is a genuine true and correct copy of such document.

Response:

Opposer objects on the ground that this request seeks irrelevant information and information not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 37:

Do you admit that the document as labeled by the Opposer as XIKAR-000462 given to the Applicant by the Opposer in response to the Applicant's First Set of Interrogatories, attached to this document as "Document 34" is a genuine true and correct copy of such document.

Response:

Opposer objects on the ground that this request seeks irrelevant information and information not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 38:

Do you admit that the document as labeled by the Opposer as XIKAR-000466 given to the Applicant by the Opposer in response to the Applicant's First Set of Interrogatories, attached to this document as "Document 35" is a genuine true and correct copy of such document.

Response:

Opposer objects on the ground that this request seeks irrelevant information and information not reasonably calculated to lead to the discovery of admissible evidence.